



भारत का राजपत्र

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No. 52] NEW DELHI, DECEMBER 18—DECEMBER 24, 2005, SATURDAY/AGRAHAYANA 27—PAUSA 3, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 19 दिसम्बर, 2005

का०आ० 4740.—प्रादेशिक ग्रामीण बैंक अधिनियम, 1976 (1976 का 21) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार, एतददारा, भारत सरकार, वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग) के दिनांक 27 जुलाई, 1984 की सं. का०आ० 535(अ) की अधिसूचना जो 27 जुलाई, 1984 को भारत के राजपत्र, असाधारण, भाग II, खण्ड 3, उप-खण्ड (ii) में प्रकाशित हुई थी, में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में, “मुजफ्फरनगर जिला” के स्थान पर, “मुजफ्फरनगर और मेरठ जिले” प्रतिस्थापित किए जाएंगे।

[फा. सं. 1 (25)/2005—आरआरबी]
एम. के. मल्होत्रा, अवर सचिव

पाद टिप्पणी: प्रधान अधिसूचना संख्या का०आ० 535(अ) दिनांक 27 जुलाई, 1984 भारत के राजपत्र, असाधारण, भाग II, खण्ड 3, उप-खण्ड (ii) दिनांक 27 जुलाई, 1994 में प्रकाशित हुआ था।

MINISTRY OF FINANCE

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 19th December, 2005

S.O. 4740.—In exercise of the powers conferred by Sub-section (1) of Section 3 of the Regional Rural Banks Act, 1976 (21 of 1976), the Central Government hereby makes the following further amendment in the Notification of the Government of India in the Ministry of Finance in the Department of Economic Affairs (Banking Division) Number S.O. 535(E) dated the 27th July, 1984 published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 27th July, 1984, namely:—

In the said Notification for the words “District of Muzaffarnagar” the words “Districts of Muzaffarnagar and Meerut” shall be substituted.

[F. No. 1(25)/2005-RRB]

M. K. MALHOTRA, Under Secy.

Foot note : The Principal notification number S.O. 535(E) dated the 27th July, 1984 was published in the Gazette of India, (Extraordinary) Part II, Section 3, Sub-section-(ii) dated the 27th July, 1984.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 26 सितम्बर, 2005

का. ०आ० ४७४१.—भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा ३ की उप-धारा (१) के खण्ड (ख) के अनुसरण में प्रो. जो. सी. सामल, प्राचार्य, एम. के. सी. जी. मेडिकल कालेज, बेरहामपुर को बेरहामपुर विश्वविद्यालय, उड़ीसा की सीनेट द्वारा इस अधिसूचना के जारी होने की हारीख से भारतीय आयुर्विज्ञान परिषद् के एक सदस्य के रूप में निर्वाचित किया गया है।

अतः, अब, उक्त अधिनियम की धारा ३ की उप-धारा (१) के उपबन्धों के अनुसरण में केन्द्रीय सरकार तत्कालीन स्वास्थ्य मंत्रालय के दिनांक ९ जनवरी, १९६० के सं. का. आ. १३८ में भारत सरकार की अधिसूचना में एतद्वारा निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में क्रम संख्या ३९ और उससे संबंधित प्रविष्टियों के लिए "धारा ३ की उप-धारा (१) के खण्ड (ख) के अधीन निर्वाचित" शीर्षक के अन्तर्गत निम्नलिखित प्रविष्टि प्रतिस्थापित की जाएगी, अर्थात्:—

"३९. प्रो. जो. सी. सामल, बेरहामपुर विश्वविद्यालय"
प्राचार्य, एम.के. सी. जी.
मेडिकल कालेज, उड़ीसा-७६०००४

[संख्या वी.-११०१३/२/२००४-एमई (नीति-१)]
के. वी. एस. राव, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE
(Department of Health)

New Delhi the 26th September, 2005

S.O. 4741.—Whereas in pursuance of clause (b) of Sub-section (1) of Section 3 of the Indian Medical Council Act, 1956 (102 of 1956) Prof. G.C. Samal, Principal, M.K.C.G. Medical College, Berhampur, has been elected by the Senate of the Berhampur University, Orissa to be a member of the Medical Council of India with effect from the date of issue of this notification.

Now, therefore, in pursuance of the provision of Sub-section (1) of Section 3 of the said Act, the Central Government hereby makes the following further amendment in the Notification of the Government of India in the then Ministry of Health number S.O. 138 dated the 9th January, 1960, namely:—

In the said Notification, under the heading, 'Elected under clause (b) of Sub-section (1) of Section 3' for serial number 39 and the entries relating thereto the following entry shall be substituted, namely:—

"३९. Prof. G. C. Samal, Berhampur University"
Principal,
M.K.C.G. Medical College,
Orissa-७६०००४.

[No. V-11013/2/2004-ME (Policy-I)]
K. V. S. RAO, Under Secy.

नई दिल्ली, 7 अक्टूबर, 2005

का.आ. 4742.—केन्द्र सरकार ने भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा ३ की उप-धारा (१) के खण्ड (क) के अनुसरण में तथा पंजाब सरकार से परामर्श काके डा. (श्रीमती) मालती थापर को इस अधिसूचना के जारी होने की तारीख से पांच वर्षों की अवधि के लिए भारतीय आयुर्विज्ञान परिषद् के एक सदस्य के रूप में नियोनीत किया है।

अतः, अब, उक्त अधिनियम की धारा ३ की उप-धारा (१) के उपबन्ध के अनुसरण में केन्द्रीय सरकार तत्कालीन स्वास्थ्य मंत्रालय की दिनांक ९ जनवरी, १९६० की अधिसूचना संख्या का.आ. १३८ में निम्नलिखित और संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में "धारा ३ की उप-धारा (१) के खण्ड (ख) के अधीन नियोनीत" शीर्षक के अंतर्गत क्रम संख्या ११ और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्या और प्रविष्टियां प्रतिस्थापित की जाएंगी, अर्थात्:—

"११. डा. (श्रीमती) मालती थापर, पंजाब सरकार"

डा. श्याम लाल थापर नर्सिंग होम,

जी. टी. रोड, मोगा

[संख्या वी-११०१३/१/२००५-एमई (नीति-१)]

के. वी. एस. राव, अवर सचिव

New Delhi, the 7th October, 2005

S.O. 4742.—Whereas the Central Government, in pursuance of clause (a) of Sub-section (1) of Section 3 of the Indian Medical Council Act, 1956 (102 of 1956) and in consultation with the Government of Punjab have nominated Dr. (Mrs.) Malti Thapar, to be a member of the Medical Council of India for a period of five years with effect from the date of issue of this notification.

Now, therefore, in pursuance of the provision of Sub-section (1) of Section 3 of the said Act, the Central Government hereby makes the following further amendment in the notification of the Government of India in the then Ministry of Health number S.O. 138, dated the 9th January, 1960, namely:—

In the said notification, under the heading, 'Nominated under clause (a) of Sub-section (1) of Section 3' for serial number 11 and the entries relating thereto, the following serial number and entries shall be substituted, namely:—

"११. Dr. (Mrs) Malti Thapar, Government of Punjab"
Dr. Shyam Lal Thapar Nursing Home,
G.T. Road, Moga

[No. V-11013/१/२००५-ME (Policy-I)]

K. V. S. RAO, Under Secy.

पोत परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय
(पोत परिवहन विभाग)
नई दिल्ली, 28 नवम्बर, 2005

का.आ. 4743.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित 1987) के नियम 10 के उप-नियम 4 के अनुसरण में पोत परिवहन, सड़क-परिवहन और राजमार्ग मंत्रालय, पोत परिवहन विभाग के प्रशासनिक नियंत्रण के अधीन निम्नलिखित कार्यालय में 80% से अधिक कर्मचारियों द्वारा हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लेने पर उसे एतद्वारा अधिसूचित करती है :—

कोलकाता पत्तन न्यास,
15, स्ट्रैड रोड,
कोलकाता-700001

[फा. सं. ई-11011/1/2000-हिन्दी]
अजय कुमार भल्ला, संयुक्त सचिव

MINISTRY OF SHIPPING, ROAD TRANSPORT AND HIGHWAYS
(Department of Shipping)

New Delhi, the 28th November, 2005

S.O. 4743.—In pursuance of the sub rule (4) of the rule 10 of the Official Language (use for the official purpose of the Union) Rules, 1976 (as amended 1987), the Central Government hereby notifies the following office under the administrative control of the Ministry of Shipping, Road Transport and Highways, Department of Shipping, more than 80% of the staff of which have acquired working knowledge of Hindi :—

Kolkata Port Trust,
15, Strand Road,
Kolkata-700001

[F.No. E-11011/1/2000-Hindi]

A. K. BHALLA, Jt. Secy.

कृषि मंत्रालय
(कृषि अनुसंधान और शिक्षा विभाग)
(भारतीय कृषि अनुसंधान परिषद्)

नई दिल्ली, 13 दिसम्बर, 2005

का.आ. 4744.—कृषि उत्पाद उपकर अधिनियम, 1940 की धारा 7(2) तथा भारतीय कृषि अनुसंधान परिषद् द्वारा निर्मित स्थाई वित्त समिति के विनियम 2 (iv) के अनुसरण में, भारतीय कृषि अनुसंधान परिषद्, शासी निकाय ने अपने सदस्य के रूप में डॉ. एस. एस. बघेल, कुलपति, असम कृषि विश्वविद्यालय, जोरहट-785 013, असम को 23 नवम्बर, 2005 से एक वर्ष की अवधि के लिए स्थाई वित्त समिति के सदस्य के रूप में चुना है।

[फा. सं. 6(1)/2003-गवर्नेंस सैल]

मुख्यमन्त्री नाथ, अपर सचिव

MINISTRY OF AGRICULTURE

(Department of Agricultural Research and Education)
(Indian Council of Agricultural Research)

New Delhi, the 13th December, 2005

S. O. 4744.—In pursuance of Section 7(2) of the A.P. Cess Act, 1940 and Regulation 2(iv) of the Standing Finance Committee Regulations framed by the Indian Council of Agricultural Research, the Government Body has elected Dr. S.S. Baghel, Vice-Chancellor, Assam Agricultural University, Jorhat 785 013, Assam as its Member to the Standing Finance Committee for a period of one year with effect from 23rd November, 2005.

[F.No. 6(1)/2003-Gov. Cell]

SUSHAMA NATH, Addl. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वित्तरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक व्यूरो)

नई दिल्ली 2, दिसम्बर, 2005

का.आ. 4745.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिये गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम स्थापित भारतीय मानक(कों)	नये भारतीय मानक स्थापित तिथि
सं. की संख्या, वर्ष और शीर्षक	द्वारा अतिक्रमित भारतीय मानक
	अथवा मानकों, यदि कोई हो,
	की संख्या और वर्ष

(1)	(2)	(3)	(4)
1. 13730 (भाग 43) :	2005 विशेष प्रकार के कुंडलन तारों की विशिष्टि—	31 अक्टूबर, 2005	

भाग 43 एरोमैटिक पॉलीमाइड टेप लिपटे गोल ताँबे के तार, वर्ग 240

इस भारतीय मानक की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर,

गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूजे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 33/टी-92]

पी.के. मुखर्जी, वैज्ञा. 'एफ' एवं प्रमुख (विद्युत तकनीकी)

**MINISTRY OF CONSUMER AFFAIRS,
FOOD AND PUBLIC DISTRIBUTION**
(Department of Consumer Affairs)
(BUREAU OF INDIAN STANDARDS)
New Delhi, the 2nd December, 2005

S. O. 4745.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rules 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No. and year No. of the Indian Standards	No. and year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establish- ment	
(1)	(2)	(3)	(4)
1. IS-13730 (Part 43) : 2005, Specifications for parti- cular types of winding wires Part 43 : Aromatic polyimide tape wrapped round copper wire, Class 240	—	31 October, 2005	

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. ET 33/T-92]

P.K. MUKHERJEE, Sc. 'F' and Head (Electro technical)

नई दिल्ली, 13 दिसम्बर, 2005

का. आ. 4746.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है -किंजिन भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है ये स्थापित हो गया है :—

अनुसूची

क्रम स्थापित भारतीय सं. मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक स्थापित तिथि द्वारा अतिक्रमित भारतीय मानक अंथवा मानकों, यदि कोई हो, की संख्या और वर्ष
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(1)	(2)	(3)	(4)
1. 4160 : 2005	—	30 सितम्बर, 2005	

इस भारतीय मानक की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9 बहादुर शाह जाफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बैंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूजे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 14/टी-23]

पी.के. मुखर्जी, वैज्ञा. 'एफ' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 13th December, 2005

S. O. 4746.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of rules 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No. and year No. of the Indian Standards	No. and year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establish- ment	
(1)	(2)	(3)	(4)

1. IS 4160 : 2005 Inter- locking Switch Socket Outlets—Specification (First Revision)	—	30 September, 2005	
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Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai

and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. ET 14/T-23]

P. K. MUKHERJEE, Sc. 'F' and Head (Electrotechnical)

नई दिल्ली, 14 दिसम्बर, 2005

का.आ. 4747.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतदद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संशोधित भारतीय मानक की संखा और वर्ष	संशोधन की संखा और तिथि	संशोधन लागू होने की तिथि
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(1)	(2)	(3)	(4)
1. आई एस 651:1992	2 नवम्बर, 2005	7 दिसम्बर, 2005	
2. आई एस 778:1984	3 नवम्बर, 2005	7 दिसम्बर, 2005	
3. आई एस 779:1994	5 नवम्बर, 2005	6 दिसम्बर, 2005	
4. आई एस 7231:1994	3 नवम्बर, 2005	9 दिसम्बर, 2005	
5. आई एस 9271:2004	1 नवम्बर, 2005	9 दिसम्बर, 2005	
6. आई एस 15328:2003	3 नवम्बर, 2005	9 दिसम्बर, 2005	
7. आई एस 5312(भाग 1): 2004	1 नवम्बर, 2005	8 दिसम्बर, 2005	
8. आई एस 13049:1991	1 नवम्बर, 2005	8 दिसम्बर, 2005	

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जाफर भारा, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूर्णे स्थान तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी/राजपत्र]

जे. सी. अरोड़ा, वैज्ञानिक 'ई' व प्रमुख (सिविल इंजीनियरी)

New Delhi, the 14th December, 2005

S. O. 4747.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect	
(1)	(2)	(3)	(4)
1. IS 651:1992	2 November, 2005	7 December, 2005	
2. IS 778:1984	3 November, 2005	7 December, 2005	
3. IS 779:1994	5 November, 2005	6 December, 2005	
4. IS 7231:1994	3 November, 2005	9 December, 2005	
5. IS 9271:2004	1 November, 2005	9 December, 2005	
6. IS 15328:2003	3 November, 2005	9 December, 2005	
7. IS 5312(Part 1): 2004	1 November, 2005	8 December, 2005	
8. IS 13049:1991	1 November, 2005	8 December, 2005	

Copy of this Standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. : CED/Gazette]

J.C. ARORA, Sc. 'E' & Head (Civil Engg.)

कोयला मंत्रालय

आदेश

नई दिल्ली, 15 दिसम्बर, 2005

का.आ. 4748.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम (1957 का 20) (जिसे इसमें पश्चात् उक्त अधिनियम) कहा गया है, की धारा 9 की उप-धारा (1) के अधीन जारी की गई भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 1298 तारीख 29 मार्च, 2005 जो भारत के राजपत्र, भाग ii, खंड-3, उपखंड(ii) तारीख 9 अप्रैल, 2005 में प्रकाशित होने पर उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि (जिन्हें इसमें इसके पश्चात् उक्त भूमि कहा गया है) में या उस पर के अधिकार, उक्त अधिनियम की धारा 10 की रूपधारा (1) के अधीन, सभी विल्लोगमों से मुक्त होकर, आत्मंतिक रूप से केंद्रीय सरकार में निहित हो गए थे ;

और, केंद्रीय सरकार का यह समाधान हो गया है, कि वेस्टर्न कोलफील्ड्स लिमिटेड, नागपुर (जिसे इसमें इसके पश्चात् सरकारी कंपनी कहा गया है) ऐसे निवंधनों और शर्तों का जिन्हें केंद्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए रजानंद है;

अतः अब, केंद्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है, (i) कि उक्त भूमि और उक्त भूमि में इस प्रकार निहित या उस पर के सभी अधिकार तारीख 9 अप्रैल, 2005 से केंद्रीय सरकार में इस प्रकार निहित बने रहने के बाजाय, निम्नलिखित निवंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कंपनी में निहित हो जाएंगे, अर्थात्—

1. सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिक्रिया, व्याज नुकसान और वैसी ही मदों की बाबत किए गए संदर्भों की केंद्रीय सरकार को प्रतिपूर्ति करेगी।

2. सरकारी कंपनी शर्त (i) के अधीन, केंद्रीय सरकार को संदेय रखन्मों का अवधारण करने के प्रयोजनों के लिए एक अधिकारण का गठन किया जाएगा तथा ऐसे किसी अधिकारण और अधिकारण की सहायता के लिए नियुक्त किए गए व्यक्तियों के संबंध में उपगत सभी व्यय सरकारी कंपनी बहन करेगी और वैसे ही उक्त भूमि में या उस पर इस प्रकार निहित अधिकारों के लिए या उनके संबंध में विधिक कार्यवाहियों, जैसे अपील आदि की बाबत उपगत, सभी व्यय भी उक्त सरकारी कंपनी बहन करेगी।

3. सरकारी कंपनी, केंद्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, जो उक्त भूमि में या उस पर के इस प्रकार निहित होने वाले पूर्वोक्त अधिकारों के बारे में, केंद्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किसी भी कार्यवाहियों के संबंध में आवश्यक हो, क्षतिपूर्ति करेगी।

4. उक्त सरकारी कंपनी को, केंद्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि में अधिकारों को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी, और

5. उक्त सरकारी कंपनी, ऐसे निर्देशों और शर्तों का, जो केंद्रीय सरकार द्वारा जब कभी आवश्यक हों, उक्त भूमि के विशिष्ट क्षेत्रों के लिए जाएं या अधिरोपित किए जाएं, प्राप्ति करेगी।

[प्र. सं. 43015/12/2002-पी.आर.आई.डब्ल्यू]

एम. शहाबुद्दीन, अवर सचिव

**MINISTRY OF COAL
ORDER**

New Delhi, the 15th December, 2005

S.O. 4748.—Whereas on the publication of the Notification of the Government of India in the Ministry of Coal S.O. No. 1298 dated 29th March, 2005 in the Gazette of India, Part-II, section 3, Sub-section (ii) dated 9th April, 2005 issued under Sub-section of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957

(20 of 1957) (hereinafter referred to as the said Act) the lands and rights in or over the land described in the Schedule, appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas the Central Government is satisfied that the Western Coalfields Limited, Nagpur, Maharashtra (hereinafter referred to as the Government Company), is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in the exercise of the powers conferred by Sub-section (1) of Section 11 of the said Act, the Central Government hereby directs that the said lands and rights in or over the said lands, so vested, shall, with effect from the 9th April, 2005 instead of continuing to so vest in the Central Government, vest in the said Government Company, subject to the following terms and conditions, namely:—

1. The Government company shall reimburse the Central Government all payments made in respect of compensation, interests, damages and the like, as determined under the provisions of the said Act;

2. A Tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the said Government Company under condition (1) and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the said Government company and similarly, all expenditure incurred in respect of all legal proceedings like appeals etc., for or in connection with the rights, in or over the said land, so vested shall also be borne by the said Government Company;

3. The Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vested;

4. The said Government Company shall have no power to transfer the lands and rights in or over the said lands so vested to any other person without the prior approval of the Central Government; and

5. The said Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said land as and when necessary.

[F. No. 43015/12/2002-PRIW]

M. SHAHABUDEEN, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 14 दिसम्बर, 2005

का.आ . 4749.—केंद्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि तमिलनाडु राज्य में रमनाड जी.सी. एस—

रीजेन्सी गोपन प्लान्ट पाइपलाइन परियोजना द्वारा प्राकृतिक गैस के परिवहन के लिए गेल (इंडिया) लिमिटेड द्वारा, एक पाइपलाइन बिलाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिलाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाइन बिलाए जाने का प्रसारण है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाएं;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिलाए जाने के संबंध में, श्री बी. रामाचन्द्रन, सक्षम प्राधिकारी, गेल (इंडिया) लिमिटेड, 4-बी, सेन्चुरी प्लाजा, 560-562, अन्ना सलाई तेयमामपेट, चेन्नई-600 018 (तमिलनाडु) को लिखित रूप में आपेक्ष भेज सकेगा।

अनुसूची

जिला	तहसील	गाँव	सर्वे नं.	आर.ओ. यू. अर्जित करने के लिए क्षेत्रफल (हेक्टेयर में)
(1)	(2)	(3)	(4)	(5)
रमनाड	रमनाड	53-वल्ल-	94-2	0.08-0
		थरवई	94-3	0.08-0
			94-4ए	0.05.5
			94-5ए	0.02.0
			93-1	0.07.0
			93-3	0.05.5
			93-5बी	0.05.5
			93-7	0.07.5
			91-1	0.02.0 सरकारी भूमि
			91-6	0.23.5
			92-3	0.01.0
			90-4	0.18.0
			90-5	0.08.0
			89-2	0.10.0

रमनाड	रमनाड	53-वल्ल-	89-3	0.10.0
		थरवई	89-5	0.05.0
			89-6सी	0.02.0
			87-1बी	0.02.0
			87-2	0.10.5
			65-1	0.01.0
			-बी 1 ए	
			65-1बी-	0.03.5
			1 सी	
			65-1बी-	0.04.0
			2 बी	
			65-1बी-	0.03.0
			2 सी	
			65-2सी	0.02.0
			68-2	0.09.0
			68-3	0.10.5
			69-4	0.23.0
			76-7	0.05.5
			76-8ए 1	0.08.0
			76-8ए 2	0.07.0
			76-8बी	0.02.0
			76-9	0.02.5 सरकारी भूमि
			75-1	0.14.0
			75-2	0.08.0
			74-2बी	0.02.0
			74-2सी	0.04.0
			74-2ई	0.07.0
			74-3 ए	0.07.0
			74-3बी 1	0.01.0
			73-3बीर	0.04.0
			74-4बी	0.02.0
			74-5	0.08.0
			77-1	0.02.0 सरकारी भूमि
			77-2ए	0.01.0
			77-3ए 1	0.02.5
			77-4ए 1	0.04.5
			77-5ए	0.04.0
			78-2ए	0.15.0
			78-2बी	0.17.5
			78-2सी	0.13.0
			योग	3.39.5

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
रमनाड	रमनाड	52-कुस-110-1 बी	0.25.0		रमनाड	रमनाड	52-कुस-51-3 बी	0.13.5	
		बनकुडी 109	0.09.0 सरकारी भूमि				बनकुडी 51-6	0.15.0	
		108-3ए	0.17.0				52-3	0.02.0	
		108-3बी	0.02.5				योग	4.92.5	
		108-3सी	0.05.0				18-कालु-196-1ए	0.01.0	
		108-3डी	0.05.0				कुरानी 196-1बी	0.11.5	
		108-5	0.16.5				196-2सी	0.11.0	
		94	0.41.0 सरकारी भूमि				194-2सी	0.08.0	
		93-3बी 2	0.09.5				194-5	0.04.0	
		93-1 ए	0.12.0				194-6ए	0.11.5	
		93-1 बी	0.09.5				194-6बी	0.03.5	
		93-1 सी	0.12.0				201-1बी	0.13.0	
		30	0.09.0 सरकारी भूमि				201-1सी1	0.08.5	
		29-1बी	0.35.0				201-1सी2	0.02.0	
		29-1सी 2	0.06.5				201-5ए2	0.03.5	
		36-4	0.08.0				201-7	0.06.5	
		36-5	0.04.0				193-1	0.01.0	
		37-10	0.19.0				193-10	0.04.0	
		37-8ए	0.01.0				193-11	0.04.0	
		37-9	0.02.0 सरकारी भूमि				193-8	0.05.0	
		26-1	0.19.0				193-9	0.07.0	
		26-5	0.37.0				193-12	0.01.0	
		26-3	0.01.0				202-2ए	0.07.5	
		25-1ए	0.03.5				202-1	0.01.0	
		25-2	0.01.0				202-2बी	0.09.0	
		25-3ए 1	0.08.5				203-1	0.02.0 सरकारी भूमि	
		25-3ए 2	0.02.0				203-2	0.07.0	
		25-3बी	0.09.5				203-3ए	0.12.0	
		25-4	0.02.0 सरकारी भूमि				203-3बी	0.01.5	
		16-1सी	0.07.0				203-4	0.07.0	
		16-1डी	0.11.0				203-7	0.12.5	
		40-1	0.08.5				203-9ए	0.01.0	
		40-3	0.15.5				204-1	0.09.0	
		46-1ए	0.18.0				204-2ए	0.04.0	
		46-2 बी	0.06.5				204-2बी	0.03.0	
		46-2डी	0.06.5				204-3	0.04.0	
		41-1ए	0.15.0				204-4	0.10.5	
		41-1बी	0.02.0				204-5	0.02.0	
		45-2	0.11.0				206-4	0.05.0	
		45-4 ए	0.01.0				207-2ए	0.12.0	
		44-1	0.02.0 सरकारी भूमि				207-2बी	0.01.0	
		44-3बी	0.14.0				207-3ए	0.07.0	
		51-2	0.12.0				207-3बी	0.05.0	
							208-2ए	0.07.0	
							208-2बी	0.07.5	

1	2	3	4	5
रमनाड		18-कालु-	209-2सी	0.03-0
		कुरानी	209-2डी	0.12-5
		थोग	2.59.5	

[फा. सं. एल-14014/18/05-जी.पी.]

एस.बी. मण्डल, अवर सचिव

**MINISTRY OF PERTROLEUM AND
NATURAL GAS**

New Delhi, the 14th December, 2005

S.O. 4749.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas through Ramnad GCS to Regency Power Plant pipeline project in the State of Tamilnadu, a pipeline should be laid by the GAIL (India) Limited;

And, whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of the notification issued under sub-section (I) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to the Shri V. Ramachandran, Competent Authority, GAIL (India) Limited, 4-B, Century Plaza, 560-562, Anna Salai Teynampet, Chennai-600 018 (Tamilnadu).

SCHEDULE

District	Tehsil	Village	Survey No.	Area to be Acquired for R.O.U. (in Hectares)	5
I	2	3	4		
Ramnad	Ramnad	53-Valan-	94-2	0.08.0	
		tharavai	94-3	0.08.0	
			94-4A1	0.05.5	
			94-5A	0.02.0	
			93-1	0.07.0	

1	2	3	4	5
Ramnad	Ramnad	53-Valan-	93-3	0.05.5
		tharavai	93-5B	0.05.5
			93-7	0.07.5
			91-1	0.02.0 G.POR
			91-6	0.23.5
			92-3	0.01.0
			90-4	0.18.0
			90-5	0.08.0
			89-2	0.10.0
			89-3 PT	0.10.0
			89-5	0.05.0
			89-6C	0.02.0
			87-1B	0.02.0
			87-2	0.10.5
			65-1B1A	0.01.0
			65-1B1C	0.03.5
			65-1B2B	0.04.0
			65-1B2C	0.03.0
			65-2C	0.02.0
			68-2	0.09.0
			65-3	0.10.5
			69-4	0.23.0
			76-7	0.05.5
			76-8A1	0.08.0
			76-8A2	0.07.0
			76-8B	0.02.0
			76-9	0.02.5 G.POR
			75-1	0.14.0
			75-2	0.08.0
			74-2B	0.02.0
			74-2C	0.04.0
			74-2E	0.07.0
			74-3A	0.07.0
			74-3B1	0.01.0
			74-3B2	0.04.0
			74-4B	0.02.0
			74-5	0.08.0
			77-1	0.02.0 G.POR
			77-2A	0.01.0
			77-3A1	0.02.5
			77-4A1	0.04.5
			77-5A	0.04.0

1	2	3	4	5	1	2	3	4	5
Ramnad	Ramnad	53-Valan-	78-2A	0.15.0	Ramnad	Ramnad	52-Kusa-	46-1A	0.18.0
		tharavai	78-2B	0.17.5			vankudy	46-2B	0.06.5
			78-2C	0.13.0				46-2D	0.06.5
			Total	3.39.5				41-1A	0.15.0
		52-Kusa-	110-1B	0.25.0				41-1B	0.02.0
		vankudy	109	0.09.0 G.POR				45-2	0.11.0
			108-3A	0.17.0				45-4A	0.01.0
			108-3B	0.02.5				44-1	0.02.0 G.POR
			108-3C	0.05.0				44-3B	0.14.0
			108-3D	0.05.0				51-2	0.12.0
			108-5	0.16.5				51-3B	0.13.5
			94	0.41.0 G.POR				51-6	0.15.0
			93-3B2	0.09.5				52-3	0.02.0
			93-1A	0.12.0				Total	4.92.5
			93-1B	0.09.5	18-Kalu-		196-1A	0.01.0	
			93-1C	0.12.0	kurani		196-1B	0.11.5	
			30	0.09.0 G.POR			196-2C	0.11.0	
			29-1B	0.35.0			194-2C	0.08.0	
			29-1C2	0.06.5			194-5	0.04.0	
			36-4	0.08.0			194-6A	0.11.5	
			36-5	0.04.0			194-6B	0.03.5	
			37-10	0.19.0			201-1B	0.13.0	
			37-8A	0.01.0			201-1C1	0.08.5	
			37-9	0.02.0 G.POR			201-1C2	0.02.5	
			26-1	0.19.0			201-5A2	0.03.5	
			26-5	0.37.0			201-7	0.06.5	
			26-3	0.01.0			193-1	0.01.0	
			25-1A	0.03.5			193-10	0.04.0	
			25-2	0.01.0			193-11	0.04.0	
			25-3A1	0.08.5			193-8	0.05.0	
			25-3A2	0.02.0			193-9	0.07.0	
			25-3B	0.09.5			193-12	0.01.0	
			25-4	0.02.0 G.POR			202-2A	0.07.5	
			16-1C	0.07.0			202-1	0.01.0	
			16-1D	0.11.0			202-2B	0.09.0	
			40-1	0.08.5			203-1	0.02.0 G.POR	
			40-3	0.15.5			203-2	0.07.0	
							203-3A	0.12.0	
							203-3B	0.01.5	

1	2	3	4	5
Ramad Ramnand	18-Kalu-	203-4	0.07.0	
	kurani	203-7	0.12.5	
		203-9A	0.01.0	
		204-1	0.09.0	
		204-2A	0.04.0	
		204-2B	0.03.0	
		204-3	0.04.0	
		204-4	0.10.5	
		204-5	0.02.0	
		206-4	0.05.0	
		207-2A	0.12.0	
		207-2B	0.01.0	
		207-3A	0.07.0	
		207-3B	0.05.0	
		208-2A	0.07.0	
		208-2B	0.07.5	
		209-2C	0.03.0	
		209-2D	0.12.5	
		Total	2.59.5	

[F. No. L-14014/1805-G.P.]

S. B. MANDAL, Under Secy.

नई दिल्ली, 14 दिसंबर, 2005

का.आ. 4750.—केन्द्रीय सरकार को लोकहित में, यह आवश्यक प्रतीत होता है कि गुजरात राज्य में जी.ए.सी.एल.—मैसर्स ईपक नाइट्रोट, नन्देसारी पाइपलाइन परियोजना द्वारा प्राकृतिक गैस के परिवहन के लिए गेल (इण्डिया) लिमिटेड द्वारा, एक पाइपलाइन लिंचाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आक्षय की ओरजाना करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भास्त के राजनाम में वर्णित करना दी जाती है, इसीस दिन के भीतर, भूमि के जीवे पाइपलाइन बिछाए जाने के संबंध में, श्री आर. एस. रानाडे, संसदीय प्राधिकारी, गेल (इण्डिया) लिमिटेड, दर्जन भवन, आर.सी. दत्त रोड, अलकापुरी, वडोदरा (गुजरात) को लिखित रूप में आपेक्ष भेज सकेगा।

अनुसूची				
प्रिसा	तहसील	गोप	सर्व संलग्न	आर.ओ.यू.
				अर्जित करने के लिए सोनफल (हेक्टेयर में)

1	2	3	4	5
बड़ौदा	बड़ौदा	अनगढ़	300/1	0-02-07
			बोग	0-02-07

[फाइल सं. एल-14014/16/05-जी.पी.]

एस. बी. मण्डल, अवर सचिव

New Delhi, the 14th December, 2005

S.O. 4750.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas through GACL to M/s. Deepak Nitrate, Nandesari pipeline project in the State of Gujarat, a pipeline should be laid by the GAIL (India) Limited;

And, whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of the notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to Shri R. S. Ranade Competent Authority, GAIL (India) Limited, Darpan Building, R.C. Dutt Road, Alkapuri, Vadodara-390 005 (Gujarat).

SCHEDULE

Distt.	Tehsil	Village	Survey No.	Area to be acquired for R.O.U. (in Hectares)
Vadodara	Vadodara	Angadh	300/1	0-02-07
			Total	0-02-07

1	2	3	4	5
Vadodara	Vadodara	Angadh	300/1	0-02-07
			Total	0-02-07

[F. No. L-14014/16/05-G.P.]

S. B. MANDAL, Under Secy.

नई दिल्ली, 14 दिसंबर, 2005

का.आ. 4751.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपचारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 564(अ) तारीख 19-04-2005 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गेल (इण्डिया) लिमिटेड द्वारा गुजरात राज्य में स्कॉट ग्लास-बैन्को प्रोडक्ट लिमिटेड पाइपलाइन परियोजना के माध्यम से पेट्रोलियम गैस के यांत्रिक हन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियाँ जनता को तारीख 10-5-2005 तक उपलब्ध करा दी गई थी;

और पाइपलाइन बिछाने के संबंध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अनुमति कर दिया गया है;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उस में उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्देश देती है कि पाइपलाइन बिछाने के लिए भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को, केन्द्रीय सरकार में निहित होने की बजाए, पाइपलाइन बिछाने का प्रस्ताव करने वाली ग्रोल (इण्डिया) लिमिटेड में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग का अधिकार, इस प्रकार अधिरोपित निबंधनों और शर्तों के अधीन रहते हुए, सभी विलांगमों से मुक्त, गेल (इण्डिया) लिमिटेड में निहित होगा।

अनुसूची

जिला	तहसील	गाँव	सर्वे संख्या	आर.ओ.यू.
				अर्जित करने के लिए क्षेत्रफल (हेक्टेयर में)
1	2	3	4	5
भरुच	जैनसर	अणखी	कार्ट लैन्ड	0-09-07
			योग	0-09-07

[फाइल सं. एल-14014/6/05-जी.पी.]

एस. बी. मण्डल, अवर मचिव

New Delhi, the 14th December, 2005

S.O. 4751.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas Number S.O. 564(E) dated 19-04-2005 issued under Sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transport of Natural Gas through Scott Glass to Banco Product Ltd. pipeline project in the State of Gujarat by the GAIL (India) Limited;

And whereas copies of the said Gazette notification were made available to the public on the 10-5-2005;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the Competent Authority;

And whereas the Competent Authority has, under Sub-section (1) of Section 6 of the said Act, submitted its report to the Central Government;

And Whereas the Central Government has, after considering the said report, decided to acquire the Right of User in the lands specified in the Schedule;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedule is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by Sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on this date of the publication of the declaration, in the GAIL (India) Limited, free from all encumbrances.

SCHEDULE

Distt.	Tehsil	Village	Survey No.	Area to be acquired for R.O.U. (in Hectares)
1	2	3	4	5
Bharuch	Jambusar	Ankhli	Cart-Land	0-09-07
			Total	0-09-07

[No. L-14014/6/05-G.P.]

B. B. MANDAL, Under Secy.

नई दिल्ली, 14 दिसम्बर, 2005

का. आ. 4752.—केन्द्रीय सरकार को लोकाहित में यह आवश्यक प्रतीत होता है कि राजस्थान राज्य में गुड़ामलानी-मथानिया स्पर पाइपलाइन परियोजना द्वारा प्राकृतिक गैस के परिवहन के लिए गेल (इण्डिया) लिमिटेड,द्वारा, एक पाइपलाइन बिलाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाइन बिलाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाइन बिलाई जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः, अब, केन्द्रीय सरकार, पैट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उपधारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिलाई जाने के संबंध में, श्री अकील अहमद, सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, सी-6, फ्लैट नं. 107, सर्वाई जय सिंह राजमार्ग, बनीपार्क, जयपुर (राजस्थान) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गाँव	सर्वे नं.	आर. ओ. यू.
1	2	3	4	5
जोधपुर	ओसिया	चौपासनी	100	0.3700
		चारणान	99	0.0760
			95	0.4500
			94	0.4900
			96	0.0020
			136	0.0070
			133	0.6900
			134	0.2000
			130	0.0100
			131	0.4570
			146	0.0400
		खाली	0.1330	
		खाली	0.0300	

1	2	3	4	5
रामपुरा	1	0.0100	235	0.0240
भारियान	161	0.0340	239	0.7100
	152	0.0310	238	0.0250
	2	0.5670	241	0.3040
	3	0.6680	स्थग	4.0180
	17	0.8890		
	16	0.5900		
	19	0.2670		
	18	0.0240		
	27	0.7230		
राजासनी	139	0.3800	स्थग	3.8030
	141	0.0820		
	169	0.3620		
	168	1.1820		
	170	0.0260		
	171	0.5620		
	167	0.0460		
	162	0.1270		
	163	0.8980		
	165	0.9320		
	145	1.2060		
	स्थग	5.8030		
जोधपुर	187	0.5700		
	181	0.0110		
	50	0.5130		
	51	0.0200		
	51/1	0.3900		
	51/2	0.1900		
	49	1.1400		
	48	0.4590		
	48/2	0.1490		
	48/3	0.0640		
	48/4	0.0800		
	47	0.0260		
	46/3	0.2470		
	46/2	0.3650		
	46/1	0.3600		

1	2	3	4	5	1	2	3	4	5
जोधपुर	जोधपुर	मण्डि	46	0.3000	जोधपुर	जोधपुर	बेरु	1048	0.0040
			45	0.8560				1049	0.0060
			2	0.8300				1047	0.0100
			2/1	0.7600				1062	0.8180
			1	1.3860				1065/1	0.1500
			योग	8.7160				1065	0.2810
	खोखरी		58	0.4100				1068	1.0010
			योग	0.4100				1069	0.0160
	इन्द्रोका		157/1	0.0290				1067	0.4640
			157/3	0.2430				1071	0.0220
			157/2	0.3340				1096	0.5320
			157/4	0.0200				1095	0.4510
			160	1.0760				1094	0.1490
			160/2	1.0660				1103	0.4080
			160/1	0.1580				1104	0.4540
			168	1.3670				1107	0.5360
			185/2	0.5430				1112	0.1270
			185/1	0.4010				1114	0.0400
			185	1.0730				1131	0.9810
			186	0.0090				1129	0.2990
			184	0.0290				1130	0.4390
			188	0.2090				1122	0.0340
			189	1.6000				1466	0.4100
			191	0.1380				1459	0.4940
			190	0.0800				1467	0.0900
			245	0.0760				1468	0.3980
			243	0.0040				1469	0.2060
			240	0.0160				1450	0.0290
			239	0.0660				1443	0.0900
			270	0.0350				1442	0.0100
			313	0.0820				1444	0.5890
			307	0.6480				1423	0.0400
			311	0.6070				1445	0.5200
			308	0.0060				1422	0.4540
			332/1	0.0560				1420	0.0060
			303	0.0680				1419	0.4820
			291/1	0.0980				1418	0.3040
			291	0.4710				1417	0.2470
			292	0.5110				योग	13.2270
			293	1.9100				674	0.0250
			योग	13.0290				672	0.3240
	बेरु		1060	1.5590				673	0.5700
			1059	0.0770				676	0.4800

1	2	3	4	5	1	2	3	4	5
जोधपुर.	जोधपुर	सिवि सारणी की	671	0.0060	जोधपुर	जोधपुर	कैरू	0176	0.0620
		डापी	677	1.2650				1075	0.0160
			680	0.8280				1079	0.1610
			679	0.0300				0180	0.1110
			745	0.3900				1081	0.5690
			746	0.7590				1100	0.1980
			752	0.7350				1100/2	0.0300
			750	0.6080				1099	0.2900
			751	0.1810				1098	0.0670
			749	0.2660				1085	0.2540
			783	0.4660				1086	0.5550
			822	0.0570				1087	0.3980
				योग 6.9900				1088	0.3900
	कैरू		821	0.0130				1089	0.1560
			812	2.8300				1127	0.0180
			826	2.2340				1126	0.1640
			828	0.2340				1137/1	0.0010
			839	0.0920				1138/2	0.3090
			850	0.5320				1139	0.6750
			849	0.1520				1140	0.5000
			847	0.3140				1170	0.0770
			848	0.3520				1181/1	0.0110
			843	0.6390				1181	0.5170
			853	0.0450				1182	0.8750
			918	0.5550				1211	0.0770
			926	0.7520				1219	0.6000
			1027	0.0880				1205	0.0150
			1024	0.0160				1204	0.6050
			1030	0.2430				1199	0.0010
			1031	0.1070				1203	0.2990
			1038	0.3060				1202	0.4480
			1037	0.0180				1201	0.2880
			1039	0.0040				1200	0.0390
			1036	0.0010				योग 20.7940	
			1035/1	0.2730				मोक्षलालास	20 1.1580
			1035	0.4910					19 0.0580
			1045	0.3370					22 0.7990
			1045/1	0.0790					23 0.6330
			1044	0.0030					24 0.0750
			1046	0.0740					26 0.4690
			812	0.2340					25 0.1380
			1047	0.3320					32 0.0330
			1069	0.6680					33 0.3120

I	2	3	4	5	1	2	3	4	5
जोधपुर	जोधपुर	मोकलावास	34	0.7200	जोधपुर	जोधपुर	रोहिला कला	240	0.2660
			64	0.0100				239	0.2470
			35	0.6230				238	0.2470
			63	0.0930				237	0.0160
			61	0.0650				244	0.1620
			60	0.8170				375/1	0.2850
			216	0.4020				375	0.1250
			215	0.3890				495/1	0.0650
			212	0.2520				373	0.0190
			211	0.3470				363	0.5140
			194	0.4050				376/1	0.1520
			193	0.4430				439	0.1900
			191	0.7580				440	0.6270
			179	0.0060				437	0.0670
			180	1.2760				436	0.4270
			170	0.7600				458	0.1520
			171	0.8000				459	0.0740
			157	0.0200				476	0.5130
			172	0.0200				474	0.0020
			156	0.3290				483	0.2870
			155	0.4610				484	0.0260
		योग	12.6770					486	0.3200
	रोहिला खुद	146	0.0060					485	0.3150
		147	0.6850					488	0.1280
		153	0.5470					489	0.1520
		154	0.2170					490	0.0760
		155	0.4390					526	0.2460
		156	0.7280					527	0.0100
		157/1	0.0100					योग	5.7100
		159	0.9380		लूणी	इंकर		69	0.4140
		157	0.0040					73	0.0370
		158	0.2310					179	0.6780
		127	0.0300					177	0.1310
		102	0.2540					83	0.4140
		99	0.5190					82	0.0370
		97	0.4280					84	0.3760
		94	0.0540					168	0.7530
		91	0.2780					167	0.0120
		90	0.1520					166	0.0560
		93	0.9340					170	0.0040
		87	0.0240					171	0.7720
		योग	6.4780					164	0.1880
								163	0.6400

1	2	3	4	5	1	2	3	4	5	
जोधपुर	लूणी	झवंर	97	0.0040	जोधपुर	लूणी	डोली	272	0.0200	
			98	0.4900				273	0.0900	
			115	0.0750				276	0.3540	
			117/1	0.2630				277	0.3780	
			117	0.3760				279	0.5460	
			116	0.6550				220	2.2820	
			118	0.0470				221	0.0350	
			133	0.0260				योग	7.0300	
			132	0.4710				294	0.3020	
			134	0.4140				295	0.9280	
			135	0.8660				296	0.2280	
			130	0.0340				297	0.4560	
			137	0.0370				307	1.1410	
			143	0.6460				309	0.0060	
			146	0.1920				310	0.0010	
			1960	0.8100				306	0.2150	
			1961	0.3010				316	0.0170	
			1972	0.0330				328	0.2900	
			1990	0.2090				327	0.7040	
			1993	1.2810				340	0.5720	
			1995	0.6660				340/1	0.0750	
			1992	0.4560				340/2	0.1170	
			2012	1.3800				341	0.3330	
			2022	0.1440				345	0.0100	
			खाली	0.0060				346	0.0300	
			2023	0.6790				394	0.6690	
			2001	0.0560				395	0.0010	
			1919	0.7800				726/396	0.0160	
			1918	0.8500				727/396	0.3270	
			1917	0.1350				397	0.2650	
			योग	16.9120				398	0.3000	
			डोली	303	0.6710			399	0.4230	
				302	0.2200			402	0.0200	
				301	0.3540			388	0.0800	
				263	0.0870			430	1.2260	
				300	0.0380			435	0.0560	
				264	0.1610	जोधपुर	लूणी	भाण्डूकलां	431	0.0260
				265	0.3430				455	0.2970
				266	0.4000				453	0.3330
				267	0.3150				454	0.2840
				269	0.3650				451	0.3130
				282	0.0220				441	0.2470
				268	0.3070				440	0.1090
				273	0.0420				योग	10.4170
									41	0.4560
									39	0.3820
									42	0.1
									38	0.3300
									37	0.0900
									43	0.2380
									44	0.0060

1	2	3	4	5	1	2	3	4	5
जोधपुर	लूणी	भाण्डकलां	33	0.3000	जोधपुर	लूणी	हमीर नगर	190	0.4760
			396/31	0.0400				182	1.1600
			399/31	0.5850				181	0.0040
			394/31	0.1200				योग	8.9250
			62	0.6350			रोहिंचा कलां	196	0.6460
			65	0.0250				197	0.6720
			68	0.3840				190	0.7740
			74	0.1360				189	0.7990
			75/1	0.4150				188/2	0.2020
			75	0.1900				141	0.0390
			120	0.0300				99	0.4240
			119	0.2300				98	0.8840
			121	0.0880				105	0.0400
			141	1.1080				100	0.1400
			144	0.0630				104	0.5140
			147	0.2280				103	0.4750
			154	1.9780				108/1	0.0560
			247	0.9300				94	0.0360
			246	0.1350				93	0.5310
			245	0.5140				87	1.1880
			208	1.6680				85	0.6460
			210	0.1540				84	0.1100
			211/1	0.5810				82	0.0680
			211/2	0.4170				83	1.2040
			228	0.3820				80	1.1420
			216	0.5020				46	0.7180
			217	0.6000				41	1.0980
			223	0.4750				40	0.9310
			222	0.1250				38	0.0140
			योग	14.6570				37	0.9520
		हमीरनगर	246	0.8550				18	0.0360
			247/2	0.5130				2	0.0160
			239	0.4000				1	0.4180
			238	0.6270			रोहिंचा खुर्द	योग	14.7730
			235	0.2220				214	0.2840
			234	0.0540				213	0.0430
			232	0.6280				173	0.4380
			203/4	0.6180				186	0.3580
			202	0.8580				185	0.3720
			201	0.1800				187	0.3130
			196	0.8280				188	0.3910
			193	0.7510				183	0.0300
			191	0.7510				182	0.1700

1	2	3	4	5	1	2	3	4	5
जोधपुर	लूपी	रोहिंचा सुर्द	180	0.2940	जोधपुर	लूपी	कागनाडा	81	0.0420
			151	0.3350				56	1.2760
			152	0.2710				50	0.0290
			156	0.6430				43	0.4830
			64/3	0.2020				42	0.5400
			64/4	0.0080				41	0.3260
			64/5	0.6840				40	0.3900
			65	0.0330				46	0.3840
			66	0.1420				39	1.6260
			59	0.0290				37	0.0020
			48	0.7520				36	1.2640
			45	0.4360				35	0.2000
			44	0.1800				34	0.0200
			46	0.0200				33/1	0.9720
			42	0.0350				योग	18.1130
			19	0.0790				88	0.0100
			18	0.4690				85	0.9880
			14	0.1980				योग	0.9980
			17	0.6530				19	0.0550
			15	1.2920				11	0.5300
			1	0.8360				8	1.0630
			योग	9.9900				7	0.9570
			168	0.2460				6	0.5780
			165	0.3370				4	0.6470
			167	0.0040				30	0.1240
			169	0.2160				31	0.6360
			164	0.0220				योग	4.6100
			163	0.0340				246	0.3620
			162	0.3190				239	0.0450
			161	0.2580				238	1.3580
			156	0.9220				236	0.0380
			154	0.5130				235	0.9780
			143	1.0130				232	0.0360
			144	0.2420				225	0.8670
			145	0.6660				227	0.5750
			146	0.0570				228	0.0010
			150	0.5180				224	0.0380
			148	0.0040				156	0.1520
			147	0.0570				160	0.9120
			136	0.7770				161	0.0080
			116	0.0470				159	0.9880
			101	0.3020				158/1	0.2850
			99	1.6330				158/2	0.7230
			96	0.2150				योग	7.5670
			97	0.9370					
			98	1.2200					

[फ. सं. एल-14014/18/05-जी.पी.]

एस. बी. मण्डल, अवर सचिव

New Delhi, the 14th December, 2005

S.O. 4752.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas through Gudhamalani to Mathania spur pipeline project in the State of Rajasthan, a pipeline should be laid by the GAIL (India) Limited;

And, whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty-one days from the date on which the copies of the notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to Sh. Akil Ahmed, Competent Authority, GAIL (India) Limited, C-6, 107, Kamal Apartment, Swai Jai Singh Highway, Banipark, Jaipur (Rajasthan).

SCHEDULE

District	Tehsil	Village	Survey No.	Area to be acquired for ROU (in Hect.)
1	2	3	4	5
Jodhpur	Osiyan	Chau-pasani	100	0.3700
		Charnan	99	0.0760
			95	0.4500
			94	0.4900
			96	0.0020
			136	0.0070
			133	0.6900
			134	0.2000
			130	0.0100
			131	0.4570
			146	0.0400
		Open Field	0.1330	
		Open Field	0.0300	

1	2	3	4	5
Jodhpur	Osiyan	Chau-pasani	235	0.0240
		Charnan	239	0.7100
			238	0.0250
			241	0.3040
			Total	4.0180
		Rampura	1	0.0100
		Bhatiyan	161	0.0340
			152	0.0310
			2	0.5670
			3	0.6680
			17	0.8890
			16	0.5900
			19	0.2670
			18	0.0240
			27	0.7230
			Total	3.8030
		Rajasani	139	0.3800
			141	0.0820
			169	0.3620
			168	1.1820
			170	0.0260
			171	0.5620
			167	0.0460
			162	0.1270
			163	0.8980
			165	0.9320
			145	1.2060
			Total	5.8030
		Jodhpur	187	0.5700
			181	0.0110
			50	0.5130
			51	0.0200
			51/1	0.3900
			51/2	0.1900
			49	1.1400
			48	0.4590
			48/2	0.1490
			48/3	0.0640
			48/4	0.0800
			47	0.0260
			46/3	0.2470
			46/2	0.3650
			46/1	0.3600

1	2	3	4	5	1	2	3	4	5
Jodhpur	Jodhpur	Manai	46	0.3000	Jodhpur	Jodhpur	Beru	1048	0.0040
			45	0.8560				1049	0.0060
			2	0.8300				1047	0.0100
			2/1	0.7600				1062	0.8180
			1	1.3860				1065/1	0.1500
			Total	8.7160				1065	0.2810
		Khokhari	58	0.4100				1068	1.0010
			Total	0.4100				1069	0.0160
	Indroka		157/1	0.0290				1067	0.4640
			157/3	0.2430				1071	0.0220
			157/2	0.3340				1096	0.5320
			157/4	0.0200				1095	0.4510
			160	1.0760				1094	0.1490
			160/2	1.0660				1103	0.4080
			160/1	0.1580				1104	0.4540
			168	1.3670				1107	0.5360
			185/2	0.5430				1112	0.1270
			185/1	0.4010				1114	0.0400
			185	1.0730				1131	0.9810
			186	0.0090				1129	0.2990
			184	0.0290				1130	0.4390
			188	0.2090				1122	0.0340
			189	1.6000				1466	0.4100
			191	0.1380				1459	0.4940
			190	0.0800				1467	0.0900
			245	0.0760				1468	0.3980
			243	0.0040				1469	0.2060
			240	0.0160				1450	0.0290
			239	0.0660				1443	0.0900
			270	0.0350				1442	0.0100
			313	0.0820				1444	0.5890
			307	0.6480				1423	0.0400
			311	0.6070				1445	0.5200
			308	0.0060				1422	0.4540
			332/1	0.0560				1420	0.0060
			303	0.0680				1419	0.4820
			291/1	0.0980				1418	0.3040
			291	0.4710				1417	0.2470
			292	0.5110				Total	13.2270
			293	1.9100				Shiv Sarano	0.0250
			Total	13.0290				Ki Dhani	0.3240
	Beru		1060	1.5590				673	0.5700
			1059	0.0770				676	0.4800

1	2	3	4	5	1	2	3	4	5	
Jodhpur	Jodhpur	Shiv Sarano	671	0.0060	Jodhpur	Jodhpur	Keru	1076	0.0620	
		Ki Dhani	677	1.2650				1075	0.0160	
			680	0.8280				1079	0.1610	
			679	0.0300				0180	0.1110	
			745	0.3900				1081	0.5690	
			746	0.7590				1100	0.1980	
			752	0.7350				1100/2	0.0300	
			750	0.6080				1099	0.2900	
			751	0.1810				1098	0.0670	
			749	0.2660				1085	0.2540	
			785	0.4660				1086	0.5550	
			822	0.0570				1087	0.3980	
			Total	6.9900				1088	0.3900	
		Keru	821	0.0130				1089	0.1560	
			812	2.8300				1127	0.0180	
			826	2.2340				1126	0.1640	
			828	0.2340				1137/1	0.0010	
			839	0.0920				1138/2	0.3090	
			850	0.5320				1139	0.6750	
			849	0.1520				1140	0.5000	
			847	0.3140				1170	0.0770	
			848	0.3520				1181/1	0.0110	
			843	0.6390				1181	0.5170	
			853	0.0450				1182	0.8750	
			918	0.5550				1211	0.0770	
			926	0.7520				1219	0.6000	
			1027	0.0880				1205	0.0150	
			1024	0.0160				1204	0.6050	
			1030	0.2430				1199	0.0010	
			1031	0.1070				1203	0.2990	
			1038	0.3060				1202	0.4480	
			1037	0.0180				1201	0.2880	
			1039	0.0040				1200	0.0390	
			1036	0.0010				Total	20.7940	
			1035/1	0.2730				Mokalawas	20	1.1580
			1035	0.4910					19	0.0580
			1045	0.3370					22	0.7990
			1045/1	0.0790					23	0.6330
			1044	0.0030					24	0.0790
			1046	0.0740					26	0.4000
			812	0.2340					25	0.1380
			1047	0.3320					32	0.0330
			1069	0.6680					33	0.3830

1	2	3	4	5	1	2	3	4	5
Jodhpur	Jodhpur	Mokalawas	34	0.7200	Jodhpur	Jodhpur	Rohila-Kalan	240	0.2640
			64	0.0100				239	0.2470
			35	0.6230				238	0.2470
			63	0.0930				237	0.0160
			61	0.0650				244	0.1620
			60	0.8170				375/1	0.2850
			216	0.4020				375	0.1250
			215	0.3890				495/1	0.0650
			212	0.2520				373	0.0190
			211	0.3470				363	0.5140
			194	0.4050				376/1	0.1520
			193	0.4430				439	0.1900
			191	0.7580				440	0.6270
			179	0.0060				437	0.0670
			180	1.2760				436	0.4270
			170	0.7600				458	0.1520
			171	0.8000				459	0.0740
			157	0.0200				476	0.5130
			172	0.0200				474	0.0020
			156	0.3290				483	0.2870
			155	0.4610				484	0.0260
			Total	12.6770				486	0.3200
	Rohila		146	0.0060				485	0.3150
	Khurd		147	0.6850				488	0.1280
			153	0.5470				489	0.1520
			154	0.2170				490	0.0760
			155	0.4390				526	0.2460
			156	0.7280				527	0.0100
			157/1	0.0100				Total	5.7100
			159	0.9380	Luni	Jhanwar		69	0.4140
			157	0.0040				73	0.0370
			158	0.2310				179	0.6780
			127	0.0300				177	0.1310
			102	0.2540				83	0.4140
			99	0.5190				82	0.0370
			97	0.4280				84	0.3760
			94	0.0540				168	0.7290
			91	0.2780				167	0.0120
			90	0.1520				166	0.0560
			93	0.9340				170	0.0940
			87	0.0240				171	0.7720
			Total	6.4780				164	0.1880
								163	0.0290

I	2	3	4	5	I	2	3	4	5
Jodhpur	Luni	Jhanwar	97	0.0040	Jodhpur	Luni	Doli	273	0.0420
			98	0.4900				272	0.0200
			115	0.0750				275	0.0900
			117/I	0.2630				276	0.3450
			117	0.3760				277	0.3780
			116	0.6550				279	0.5460
			118	0.0470				220	2.2820
			133	0.0260				221	0.0350
			132	0.4710				Total	7.0300
			134	0.4140			Narnadi	294	0.3020
			135	0.8660				295	0.9280
			130	0.0340				296	0.2280
			137	0.0370				297	0.4560
			143	0.6460				307	1.1410
			146	0.1920				309	0.0060
			1960	0.8100				310	0.0010
			1961	0.3010				306	0.2150
			1972	0.0330				316	0.0170
			1990	0.2090				328	0.2900
			1993	1.2810				327	0.7040
			1995	0.6660				340	0.5720
			1992	0.4560				340/1	0.0750
			2012	1.3800				340/2	0.1170
			2022	0.1440				341	0.3330
		Open Field	0.0060					345	0.0100
			2023	0.6970				346	0.0300
			2001	0.0560				394	0.6690
			1919	0.7800				395	0.0010
			1918	0.8500				726/396	0.0160
			1917	0.1350				727/396	0.3270
			Total	16.9120				397	0.2650
		Doli	303	0.6710				398	0.3000
			302	0.2200				399	0.4230
			301	0.3540				402	0.0200
			263	0.0870				388	0.0800
			300	0.0380				430	1.2260
			264	0.1610				435	0.0560
			265	0.3430				431	0.0260
			266	0.4000				455	0.2970
			267	0.3150				453	0.3330
			269	0.3650				454	0.2840
			282	0.0220				451	0.3130
			268	0.3070				441	0.2470

1	2	3	4	5	1	2	3	4	5
Jodhpur	Luni	Roich Kalan	2	0.0160	Jodhpur	Luni	Kagnada	161	0.2580
		(Contd.)	1	0.4180			(Contd.)	156	0.9220
			<u>Total</u>	<u>14.7730</u>				154	0.5130
								143	1.0130
		Roicha Khurd	214	0.2840				144	0.2420
			213	0.0430				145	0.6660
			173	0.4380				146	0.0570
			186	0.3580				150	0.5180
			185	0.3720				148	0.0040
			187	0.3130				147	0.0570
			188	0.3910				136	0.7770
			183	0.0300				116	0.0470
			182	0.1700				101	0.3020
			180	0.2940				99	1.6330
			151	0.3350				96	0.2150
			152	0.2710				97	0.9370
			156	0.6430				95	1.2200
			64/3	0.2020				81	0.0420
			64/4	0.0080				56	1.2760
			64/5	0.6840				50	0.0290
			65	0.0330				43	0.4830
			66	0.1420				42	0.5400
			59	0.0290				41	0.3260
			48	0.7520				40	0.3900
			45	0.4360				46	0.3840
			44	0.1800				39	1.6260
			46	0.0200				37	0.0020
			42	0.0350				36	1.2640
			19	0.0790				35	0.2000
			18	0.4690				34	0.0200
			14	0.1980				33/1	0.9720
			17	0.6530				<u>Total</u>	<u>18.1130</u>
			15	1.2920					
			1	0.8360				88	0.0100
			<u>Total</u>	<u>1.9900</u>				85	0.9880
		Kagnada	168	0.2460				<u>Total</u>	<u>0.9980</u>
			165	0.3370					
			167	0.0040				19	0.0550
			169	0.2160				11	0.5300
			164	0.0220				8	1.0630
			163	0.0340				7	0.9570
			162	0.3190				6	0.5780
								4	0.6470

1	2	3	4	5
Jodhpur	Luni	Piparli	30	0.1240
			31	0.6560
			Total	4.6100
		Sonai	246	0.5620
			239	0.0450
			238	1.3580
			236	0.0380
			235	0.9780
			232	0.0360
			225	0.8670
			227	0.5750
			228	0.0010
			224	0.0380
			156	0.1520
			160	0.1920
			161	0.0080
			159	0.9890
			158/1	0.2850
			158/2	0.7230
			Total	7.5670

[F. No. L-14014/18/05-G. P.]

S. B. MANDAL, Under Secy.

नई दिल्ली, 23 दिसम्बर, 2005

का.आ. 4753.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का.आ. 882 (अ), तारीख 24-6-2005 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गेल (इण्डिया) लिमिटेड द्वारा मध्य प्रदेश राज्य में कैलारस-मालनपुर स्पर पाइपलाइन परियोजना के माध्यम से आर-एल.एन.जी. के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियाँ जनता को तारीख 1-8-2005 तक उपलब्ध करा दी गई थीं;

और पाइपलाइन बिछाने के संबंध में जनता से प्राप्त आक्षेपों पर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अनुज्ञात कर दिया गया है;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और सक्षम प्राधिकारी ने, उक्त रिपोर्ट पर विचार करने के पश्चात् और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अप्रैक्षित हैं, उस में उपयोग के अधिकार का अर्जन करने का विवेचन किया है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करता है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्देश देता है कि पाइपलाइन बिछाने के लिए भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को, केन्द्रीय सरकार में निहित होने की बजाए, पाइपलाइन बिछाने का प्रस्ताव करने वाली गेल (इण्डिया) लिमिटेड में निहित होगा और तदुर्परि, भूमि में ऐसे उपयोग का अधिकार, इस प्रकार अधिरोपित निवंधनों और शर्तों के अधीन रहते हुए, सभी विलंगामों से मुक्त, गेल (इण्डिया) लिमिटेड में निहित होगा।

अनुसूची

जिला	तहसील	गाँव	सर्वे संख्या	आर.ओ.यू. के लिए अंजित क्षेत्रफल (हेक्टेयर में)
मुरैना	मुरैना	जयपुर उर्फ नवागांव	711	0.10
			712म	0.03
			716	0.09
			437	0.02
			719	0.01
			436म	0.30
			435म	0.25
			380	0.02
			383	0.01
			274	0.07
			275	0.03
			276	0.07
			277	0.03
			281	0.06
			287	0.01
			288	0.02
			280	0.03
			289	0.04
			290	0.01
			262म	0.24
			114	0.04
			402म	0.32
			कुल	1.78

1	2	3	4	5	1	2	3	4	5
मुरैना	मुरैना	फूलपुर			मुरैना	मुरैना	पमाया		
		352	0.06					160	0.03
		354	0.13					158	0.06
		346	0.02					157म	0.05
		362	0.08					153	0.04
		363	0.03					151म	0.12
		364	0.10					150	0.11
		365	0.02					149म	0.18
		336	0.01					115म	0.02
		335	0.09					104म	0.27
		334म	0.08					110	0.01
		410	0.11					106	0.09
		431	0.02					105	0.07
		430	0.02					102	0.12
		429म	0.01					101	0.01
		413	0.11					<u>कुल</u>	<u>1.62</u>
		412	0.01						
		427	0.02				सेवा	593	0.05
		415	0.07					592	0.20
		419	0.02					123	0.02
		417	0.01					121	0.05
		418	0.05					119	0.04
		420	0.02					117	0.04
		508म	0.06					118	0.01
		505	0.01					116	0.05
		504	0.16					115	0.05
		502म	0.06					109	0.08
		501म	0.19					108	0.03
		500	0.05					107	0.03
		500	0.01					106	0.09
		499	0.10					105	0.01
		499म	0.01					94	0.01
		<u>कुल</u>	<u>1.73</u>					95	0.06
								96	0.05
		180	0.08					89	0.08
		181	0.03					88	0.08
		177	0.04					35	0.05
		172	0.11					32	0.11
		171	0.05					31	0.06
		162म	0.01					30	0.08
		161	0.12					27	0.06
								25	0.01
								<u>कुल</u>	<u>1.40</u>

1	2	3	4	5
मुरेना	मुरेना	विजयपुरा	428	0.05
			421म	0.03
			420म	0.10
			164	0.01
			406	0.10
			405	0.01
			357	0.06
			358	0.05
			351/432	0.04
			351	0.01
			350	0.06
			180	0.06
			183	0.01
			182	0.04
		कुल	0.63	
बारे का पुरा			133	0.04
			118	0.03
			116	0.10
			106	0.10
			107	0.01
			113	0.04
			109	0.10
			110	0.02
			61	0.01
			60	0.07
			59	0.05
			58	0.09
		कुल	0.66	
तुराबाद			1259	0.07
			1258म	0.01
			1260म	0.06
			1261	0.04
			1269	0.03
			1268	0.06
			1267	0.12
			1273	0.01
			1266	0.02
			1274	0.15
			1276	0.06
			1248	0.02
		कुल	0.65	

[फा. सं. एल-14014/14/05-जी.पी.]

एस० बी० मण्डल, अवर सचिव

New Delhi, the 23rd December, 2005

S.O. 4753.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 882(E) dated 24-6-2005 issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transport of R-LNG through Kailaras—Malanpur spur pipeline project in the State of Madhya Pradesh by the GAIL (India) Limited;

And, whereas, copies of the said Gazette Notification were made available to the public on the 01-08-2005;

And, whereas, the objections received from the public to the laying of the pipeline have been considered and disallowed by the Competent Authority;

And, whereas, the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted its report to the Central Government;

And whereas the Central Government has, after considering the said report, decided to acquire the Right of User in the lands specified in the Schedule;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedule is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on this date of the publication of the declaration, in the GAIL (India) Limited, free from all encumbrances.

SCHEDULE

District	Tehsil	Village	Survey No.	Area to be acquired for ROU (in Hectare)
1	2	3	4	5
Morena	Morena	Jaipur Alias	711	0.10
		Nayagaon	712M	0.03
			716	0.09
			437	0.02

1	2	3	4	5	1	2	3	4	5
Morena	Morena	Jaipur Alias	719	0.01	Morena	Morena	Phulpur	508M	0.06
		Nayagaon	436M	0.30				505	0.01
			435M	0.25				504	0.16
			380	0.02				502M	0.06
			383	0.01				501M	0.19
			274	0.07				500	0.05
			275	0.03				500	0.01
			276	0.07				499	0.10
			277	0.03				499M	0.01
			281	0.04				Total	1.73
			287	0.01			Pawaya	180	0.08
			288	0.02				181	0.03
			280	0.03				177	0.04
			289	0.04				172	0.11
			290	0.01				171	0.05
			262M	0.24				162M	0.01
			114	0.04				161	0.12
			402M	0.32				160	0.03
			Total	1.78				158	0.06
	Phulpur		352	0.06				157M	0.05
			354	0.13				153	0.04
			346	0.02				151M	0.12
			362	0.08				150	0.11
			363	0.02				149M	0.18
			364	0.10				115M	0.02
			365	0.02				104M	0.27
			336	0.01				110	0.01
			335	0.09				106	0.09
			334M	0.08				105	0.07
			410	0.11				102	0.12
			431	0.02				101	0.01
			430	0.02				Total	1.62
			429M	0.01			Sewa	593	0.05
			413	0.11				592	0.20
			412	0.01				123	0.02
			427	0.02				121	0.05
			415	0.07				119	0.04
			419	0.02				117	0.04
			417	0.01				118	0.01
			418	0.05				116	0.05
			420	0.02				115	0.05
								109	0.08

1	2	3	4	5
Morena	Morena	Sewa	108	0.03
			107	0.03
			106	0.09
			105	0.01
			94	0.01
			95	0.06
			96	0.05
			89	0.08
			88	0.08
			35	0.05
			32	0.11
			31	0.06
			30	0.08
			27	0.06
			25	0.01
			Total	1.40
Vijaypura			428	0.05
			421M	0.03
			420M	0.10
			164	0.01
			406	0.10
			405	0.01
			357	0.06
			358	0.05
			351/432	0.04
			351	0.01
			350	0.06
			180	0.06
			183	0.01
			182	0.04
			Total	0.63
Bare Ka Pura			133	0.04
			138	0.03
			116	0.10
			106	0.10
			107	0.01
			113	0.04
			109	0.10
			110	0.02

1	2	3	4	5
Morena	Morena	Bare Ka Pura	60	0.07
			59	0.05
			58	0.09
			Total	0.66
Nurabad			1259	0.07
			1258M	0.01
			1260M	0.06
			1261	0.04
			1269	0.03
			1268	0.06
			1267	0.12
			1273	0.01
			1266	0.02
			1274	0.15
			1276	0.06
			1248	0.02
			Total	0.65

[F. No. L-14014/14/05-G.P.]

S. B. MANDAL, Under Secy.

नई दिल्ली, 23 दिसम्बर, 2005

का.आ. 4754.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उप-धारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और प्राकृतिक गैस भंगालय की अधिसूचना संलग्न का.आ. 883 (अ) तारीख 24-06-2005 द्वारा, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गेल (इण्डिया) लिमिटेड द्वारा भव्य प्रदेश राज्य में कैलारस-मालनपुर स्पर पाइपलाईन परियोजना के माध्यम से आर.एल.एन.जी. के विविहन के लिए पाइपलाईन बिछाने के प्रयोजन के लिए उपयोग का अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्रित अधिसूचना की प्रतियाँ जनता को तारीख 5-8-2005 तक उपलब्ध करा दी गई थी;

और पाइपलाईन बिछाने के संबंध में जनता से प्राप्त अल्कोर्डर सक्षम प्राधिकारी द्वारा विचार कर लिया गया है और उन्हें अनुदाता कर दिया गया है;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उप-धारा (1) के अधीन केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और सक्षम प्राधिकारी ने, उक्त रिपोर्ट पर विचार करने के बाद और वह समाधान हो जाने के बाद भूमि-पाइपलाईन बिछाने के

1	2	3	4	5	1	2	3	4	5
लिए अपेक्षित हैं, उस में उपयोग के अधिकार का अर्जन करने का विविहितवय किया है;					ग्वालियर	ग्वालियर	बरौआ	141म	0.10
अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइनें बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;								142म	0.15
और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, निर्देश देती है कि पाइपलाइनें बिछाने के लिए भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को, केन्द्रीय सरकार में निहित होने की बजाए, पाइपलाइनें बिछाने का प्रस्ताव करने वाली गेल (इण्डिया) लिमिटेड में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग का अधिकार, इस प्रकार अधिरोपित निवेशों और शर्तों के अधीन रहते हुए, सभी खिलंगमों से मुक्त, गेल (इण्डिया) लिमिटेड में निहित होगा।							146म	0.11	
अनुसूची								148	0.01
जिला	तहसील	गांव	सर्वे संख्या	आर.ओ.यू. के लिए अर्जित क्षेत्रफल (हेक्टेयर में)				147म	0.04
1	2	3	4	5				215म	0.24
मुरैना	मुरैना	जयपुर उर्फ नयागांव	711 710म 725 730म 827म 823 825म 979म	0.05 0.03 0.01 0.11 0.06 0.03 0.22 0.03				216म	0.01
			कुल	0.54				204	0.03
ग्वालियर	ग्वालियर	बरौआ	1म 2म 17म 14म 13म 62म 61म 60म	0.03 0.09 0.05 0.11 0.23 0.04 0.15 0.13				203	0.01
								200म	0.18
								202म	0.01
								201म	0.02
								359म	0.02
								360म	0.31
								371	0.08
								372	0.02
								369	0.05
								375	0.08
								376	0.02
								976म	0.12
								1000	0.06
								1008	0.02
								1004	0.09
								1007	0.01
								1005	0.01
								1006	0.09
								1231	0.08
								1229	0.05
								1225	0.02
								1213	0.09
								1205	0.05
								1216	0.02
								1203	0.06
								1201	0.05
								1200	0.02
								1478	0.01

1	2	3	4	5	1	2	3	4	5
ग्वालियर	ग्वालियर	बरीआ	1479	0.07	ग्वालियर	ग्वालियर	रायरु	514म	0.26
			1480	0.04				622	0.40
			1482	0.04				621	0.02
			1509	0.04				574	0.01
			1473	0.01				575	0.02
			1510	0.10				578	0.06
			1523	0.06				577	0.01
			1525	0.05				585	0.04
			1537	0.01				584	0.01
			1536	0.06				602	0.04
			1534	0.03				604	0.06
			1556	0.04				614	0.03
			1557	0.04				724	0.02
			1558	0.07				727	0.05
			1559	0.01				728	0.03
			1561	0.04				737	0.03
			1560	0.07				732	0.03
			1628	0.01				733	0.03
			1629	0.06				734	0.02
			1630	0.05				819	0.02
			1639	0.07				817	0.02
			1650	0.01				816	0.04
			1640	0.01				815	0.01
			1649	0.05				756	0.02
			1642	0.10				757	0.02
			1645	0.07				774	0.06
			कुल	4.38				775	0.02
								778	0.02
								779	0.03
ग्वालियर	ग्वालियर	रायरु	412	0.08				781	0.02
			414	0.01				784	0.03
			409	0.01				कुल	2.07
			425	0.05	ग्वालियर	ग्वालियर	रुद्रपुरा	117	0.04
			424	0.05				119	0.01
			423	0.06				139म	0.1
			426	0.06				164	0.05
			422	0.11				163	0.04
			513	0.01				165	0.01
			511	0.12				175	0.02

1 ग्रामियर	2 ग्रामियर	3 रुपयुरा	4	5	1 ग्रामियर	2 ग्रामियर	3 जमाहर	4	5
		176	0.01				411म	0.08	
		174	0.04				412	0.04	
		187	0.01				413	0.14	
		188	0.05				448	0.01	
		391	0.02				415	0.01	
		390म	0.03				447	0.01	
		229म	0.11				485म	0.13	
		377म	0.7				484म	0.04	
		376म	0.08				488म	0.01	
		232	0.08				489	0.17	
		367	0.10				490	0.01	
		365म	0.15				499म	0.05	
		664	0.07				498म	0.10	
		651म	0.01				501म	0.01	
		665	0.05				511	0.04	
		663म	0.04				510	0.05	
		668	0.05				513	0.08	
		670म	0.15				514	0.01	
		674म	0.09				559	0.11	
		682म	0.01				560	0.01	
		कुल	1.49						
ग्रामियर	ग्रामियर	डॉडियापुरा					544	0.01	
		38	0.08				558	0.10	
		41म	0.09				556	0.05	
		42	0.01				546	0.01	
		40	0.01				555	0.02	
		45	0.08				554	0.04	
		46	0.08				654	0.08	
		80	0.09				655	0.04	
		79	0.07				656	0.21	
		89	0.02				658	0.01	
		90	0.11				954	0.01	
		91	0.01				कुल	1.69	
		98	0.12				161	0.04	
		102	0.01				162	0.01	
		99	0.07				163म	0.05	
		101	0.01				164	0.01	
		100	0.13						
		104म	0.01						
		कुल	1.01						

1	2	3	4	5
रक्कालियर	रक्कालियर	अकबरपुर	165म	0.09
			173	0.02
			177म	0.03
			175म	0.13
			275	0.04
			271	0.16
			272	0.03
			267	0.05
			265म	0.02
			264	0.09
			309म	0.14
			308म	0.09
			325म	0.01
			306	0.14
			327म	0.03
			कुल	1.18

मक		
	115	0.08
	116म	0.13
	117म	0.04
	149म	0.04
	148	0.12
	230	0.05
	221	0.07
	227म	0.12
	302	0.10
	301म	0.08
	300	0.09
	525	0.07
	524	0.08
	520	0.02
	518	0.07
	517	0.01
	516	0.05
	800	0.01
	801	0.05
	803	0.02
	804	0.16

1	2	3	4	5
रक्कालियर	रक्कालियर	मक	805म	0.11
			807	0.04
			809म	0.06
			813म	0.11
			819	0.07
			818म	0.11
			832म	0.12
			836	0.16
			842	0.14
			844	0.01
			845	0.01
			848	0.01
			833	0.10
			कुल	2.51

[फा. सं. एल.-14014/14/'05-जी.पी.]

एस. बी. मण्डल, अधर सचिव

New Delhi, the 23rd December, 2005

S.O. 4754.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 883(E) dated 24-6-2005 issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for transport of R-LNG through Kailaras—Malanpur spur pipeline project in the State of Madhya Pradesh by the GAIL (India) Limited;

And whereas copies of the said Gazette notification were made available to the public on the 5-8-2005;

And whereas the objections received from the public to the laying of the pipeline have been considered and disallowed by the Competent Authority;

And whereas the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted its report to the Central Government;

And whereas the Central Government has, after considering the said report, decided to acquire the Right of User in the lands specified in the Schedule;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the Right of User in the land specified in the Schedule is hereby acquired for laying the pipeline;

And, further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government hereby directs that the Right of User in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest, on this date of the publication of the declaration, in the GAIL (India) Limited, free from all encumbrances.

SCHEDULE

District	Tehsil	Village	Survey No.	Area to be acquired for ROU (in Hectares)
1	2	3	4	5
Morena	Morena	Jaipur Alias	711	0.05
		Nayagaon	710M	0.03
			725	0.01
			730M	0.11
			827M	0.06
			823	0.03
			825M	0.22
			979M	0.03
			Total	0.54
Gwalior	Gwalior	Barauwa	1M	0.03
			2M	0.09
			17M	0.05
			14M	0.11
			13M	0.23
			62M	0.04
			61M	0.15
			60M	0.13
			141M	0.10
			142M	0.15
			146M	0.11
			148	0.01
			147M	0.04
			215M	0.24
			216M	0.01
			204	0.03
			203	0.01
			200M	0.18
			202M	0.01
			201M	0.02
			359M	0.02
			360M	0.31
			371	0.08

1	2	3	4	5
Gwalior	Gwalior	Barauwa	372	0.02
		—(Contd.)	369	0.05
			375	0.08
			376	0.02
			976M	0.12
			1000	0.06
			1008	0.02
			1004	0.09
			1007	0.01
			1005	0.01
			1006	0.09
			1231	0.08
			1229	0.05
			1225	0.02
			1213	0.09
			1205	0.05
			1216	0.02
			1203	0.06
			1201	0.05
			1200	0.02
			1478	0.01
			1479	0.07
			1480	0.04
			1482	0.04
			1509	0.04
			1473	0.01
			1510	0.10
			1523	0.06
			1525	0.05
			1537	0.01
			1536	0.06
			1534	0.03
			1556	0.04
			1557	0.04
			1558	0.07
			1559	0.01
			1561	0.04
			1560	0.07
			1628	0.01
			1629	0.06
			1630	0.05
			1639	0.07

1	2	3	4	5	1	2	3	4	5
Gwalior	Gwalior	Dondiyapura	101	0.01	Gwalior	Gwalior	Akbarpur	275	0.04
			100	0.13				271	0.16
			104M	0.02				272	0.03
			Total	1.01				267	0.05
		Jamahar	411M	0.08				265M	0.02
			412	0.04				264	0.09
			413	0.14				309M	0.14
			448	0.01				308M	0.09
			415	0.01				325M	0.01
			447	0.01				306	0.14
			485M	0.13				327M	0.03
			484M	0.04				Total	1.18
			488M	0.01			Mew	115	0.08
			489	0.17				116M	0.13
			490	0.01				117M	0.04
			499M	0.05				149M	0.04
			498M	0.10				148	0.12
			501M	0.01				230	0.05
			511	0.04				221	0.07
			510	0.05				227M	0.12
			513	0.08				302	0.10
			514	0.01				301M	0.08
			559	0.11				300	0.09
			560	0.01				525	0.07
			544	0.01				524	0.08
			558	0.10				520	0.02
			556	0.05				518	0.07
			546	0.01				517	0.01
			555	0.02				516	0.05
			554	0.04				800	0.01
			654	0.08				801	0.05
			655	0.04				803	0.02
			556	0.21				804	0.16
			558	0.01				805M	0.11
			954	0.01				807	0.04
			Total	1.69				809M	0.06
		Akbarpur	161	0.04				813M	0.11
			162	0.01				819	0.07
			163M	0.05				818M	0.11
			164	0.01				832M	0.12
			165M	0.09				836	0.16
			173	0.02				842	0.14
			177M	0.03				844	0.01
			175M	0.13				845	0.01
								848	0.01
								833	0.10
								Total	2.51

नई दिल्ली, 21 दिसम्बर, 2005

का. आ. 4755.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में और भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं0 का0 आ0 1971 तारीख 12 अगस्त, 2004 का आशोधन करते हुए, उक्त अधिनियम के अधीन, हरियाणा राज्य के राज्यक्षेत्र के भीतर, गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड की मुन्ड्रा-बठिण्डा पाइपलाइन व हिन्दुस्तान पेट्रोलियम कॉरपोरेशन लिमिटेड (एच.पी.सी.एल.) की मुन्ड्रा-दिल्ली पेट्रोलियम उत्पाद पाइपलाइन के लिए सक्षम अधिकारी के कृत्यों का पालन करने के लिए, एच.पी.सी.एल. में प्रतिनियुक्ति पर, श्री प्रह्लाद सिंह, जिला राजस्व अधिकारी, हरियाणा सरकार को प्राधिकृत करती है।

[फा. सं. आर-31015/6/2004-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 21th December, 2005

S. O. 4755.—In pursuance of clause (a) of section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) and in modification of notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 1971 dated the 12th August, 2004, the Central Government hereby authorizes Shri Prahlad Singh, District Revenue Officer, Government of Haryana, on deputation to Hindustan Petroleum Corporation Limited(HPCL), to perform the functions of the competent authority for Mundra-Bathinda Pipeline of Guru Gobind Singh Refineries Limited and HPCL's Mundra- Delhi Petroleum Product Pipeline, under the said Act, within the territory of the State of Haryana.

[No. R-31015/6/2004-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 22 दिसम्बर, 2005

का. आ. 4756.—केन्द्रीय सरकार ने पेट्रोलियम और प्राकृतिक गैस मंत्रालय के का. आ. 3011 दिनांक 18.08.2005 द्वारा पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) के अधीन अधिसूचना प्रकाशित कर, ब्यावर से वित्तीकृषक तक पेट्रोलियम उत्पादों के परिवहन के लिए 'सिंधुपुर-सांगानेर पाइपलाइन से वित्तीकृषक तक ब्राव्ह लाइन' के कार्यान्वयन हेतु एक शाखा पाइपलाइन बिछाने के लिये उक्त अधिसूचना में विनिर्दिष्ट ताहसील कितौक्कड़, जिला वित्तीकृषक, राजस्थान राज्य की भूमि अधिसूचित की थी।

और उक्त अधिसूचना की प्रतियों जगता को दिनांक 23.09.2005 तक उपलब्ध करा दी गई थी।

और उक्त अधिनियम की धारा 6 की उप-धारा (1) के अनुसरण में सक्षम प्राधिकारी, राजस्थान, जे केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है।

और, केन्द्रीय सरकार ने उक्त रेपोर्ट पर विचार करने के पश्चात् इस आधेसूचना से उपाख्य अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार अर्जित करने का विवरण किया है।

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए घोषणा करती है कि इस आधेसूचना से उपाख्य अनुसूची में विनिर्दिष्ट भूमि में पाहपलाइन बिल्डिंग के उपयोग का अधिकार अर्जित किया जाता है।

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निर्देश देती है कि उक्त भूमि ने उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय सभी विल्लंगमों से मुक्त होकर हॉटर हॉटिंग ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

वक्तावील : चित्तौड़गढ़		ज़िला : चित्तौड़गढ़		राज्य : राजस्थान			
गांव का नाम	खसरा सख्ता	क्षेत्रफल			हेक्टेयर	एकर	वर्ग मीटर
		3	4	5			
बड़ोदिया	1538	0	01	30			

[फा. सं. आर-25011/31/2004-ओ.आर-1]

एस. के. चिट्कारा, अवर सचिव

New Delhi, the 22th December, 2005

S. O. 4756.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. number 3011 dated 18.08.2005 issued under sub section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the land in Tehsil : Chittaurgarh, District : Chittaurgarh in the State of Rajasthan, specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of petroleum products in the State of Rajasthan from Beawar to Chittaurgarh in respect of "Branch Pipeline to Chittaurgarh from Sidhpur – Sanganer Pipeline" by the Indian Oil Corporation Limited.

And whereas, copy of the said notification was made available to the general public on 23.09.2005.

And whereas, the Competent Authority has under sub-section (1) of section 6 of the said Act submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report is satisfied that the right of user in the land specified in the Schedule appended to this Notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule appended to this notification is hereby acquired;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vests from the date of publication of this declaration, in the Indian Oil Corporation Limited free from all encumbrances.

SCHEDULE

Tehsil : CHITTAURGARH		District: CHITTAURGARH		State : RAJASTHAN			
Name of the Village	Khasara No.	Area			Hectare	Are	Sq.mtr.
		1	2	3			
BADODIYA	1538	0	01	30			

[F. No. R-25011/31/2004-O.R.-I]

S. K. CHITKARA, Under Secy.

नई दिल्ली, 23 दिसम्बर, 2005

का. आ. 4757.— केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई आख्त सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1604 तारीख 26 अप्रैल, 2005, जो भास्त के राजपत्र तारीख 30 अप्रैल, 2005 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में महाराष्ट्र राज्य में लोणी (पुणे) से पक्की (सोलापुर) तक हजारवाडी के रास्ते पेट्रोलियम उत्पादों के परिवहन के लिए मुख्य - पुणे पाइपलाइन विस्तार परियोजना के माध्यम से हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जबता को तारीख 9 जुलाई, 2005, को उपलब्ध करां दी गई थीं;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार जो अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करके के पश्चात, और यह समाधान हो जाके पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करके का विनिश्चय किया है;

अतः अब, केंद्रीय सरकार, उक्त अधिनियम की धारा 6 की उपाधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्विष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है ;

और केंद्रीय सरकार उक्त अधिनियम की धारा 6 की उपाधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह बिदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केंद्रीय सरकार में विहित होने की बजाए, सभी विलंगमों से मुक्त, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड में विहित होगा।

अनुसूची							
तातुका : पंढरपुर			जिला : सोलापुर		राज्य : महाराष्ट्र		
क्रम सं.	पाल का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल		
					हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6	7	8
1	आंबे चिंद्योली		120		00	07	77
			89		00	02	40
			104		00	30	10
			97		00	03	20
			94		00	04	59
			105		00	00	90
			119		00	00	48
2	पुलूजवाडी			कुल	00	48	06
			304		00	16	65
			318		00	11	80
			319		00	06	25
			320		00	06	25
			321		00	04	95
				कुल	00	45	90

[फा. सं. आर-31015/21/2004-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 23th December, 2005

S. O. 4757.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 1604, dated the 26th April, 2005, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), published in the Gazette of India dated the 30th April, 2005, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products through Mumbai-Pune Pipeline Extension Project from Lonl (Pune) to Pakni (Solapur) (via Hazarwadi) in the State of Maharashtra by Hindustan Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 9th July, 2005;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of this declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Taluka : PANDHARPUR		District : SOLAPUR		State : MAHARASHTRA			
Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area		
1	2	3	4	5	Hectare	Are	Sq.mt
1	AMBE CHINCHOLI		120		00	07	77
			89		00	02	40
			104		00	30	10
			97		00	03	20
			94		00	04	59
			105		00	00	90
			119		00	00	48
				Total	00	48	06
2	PULUVADI		304		00	16	65
			318		00	11	80
			319		00	06	25
			320		00	06	25
			321		00	04	95
				Total	00	45	90

[No. R-31015/21/2004-O.R.-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 23 दिसम्बर, 2005

का. आ. 4758.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1601 तारीख 25 अप्रैल, 2005, जो भारत के राजपत्र तारीख 30 अप्रैल, 2005 में प्रकाशित की गई थी, द्वाया उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में महाराष्ट्र राज्य में लोणी (पुणे) से पकड़ी (सोलापुर) तक हजारस्वामी के रास्ते पेट्रोलियम उत्पादों के परिवहन के लिए मुख्य-पुणे पाइपलाइन विस्तार परियोजना के माध्यम से हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिल्डिंग के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी और उक्त उपयोग अधिसूचना की प्रतियां जनता को तारीख 2 सिसम्बर, 2005, को उपलब्ध करा दी गई थी ; और सकाम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है ; और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिल्डिंग के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिर्वय किया है ; अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वाया प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिल्डिंग के लिए उपयोग के अधिकार का अर्जन किया जाता है ; और केन्द्रीय सरकार इस अधिनियम की धारा 6 की उपधारा (4) द्वाया प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में बिठित होने की बजाए, सभी विलंगमों से मुक्त, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची

तालुका : कडेगांव		जिला : सांगली		राज्य : महाराष्ट्र		
क्रम सं.	गाव का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल	
1	2	3	4	5	कॅटर एयर ग्राम मीटर	
1	उपाले वांगी	143 148		4 ब 00 00	06 22 88	
				कुल	00 07 08	
2	उपाले मायणी		157 204		00 01 37 00 07 15	
				कुल	00 08 62	
3	तोंडोली		261 284 295 309 318 403 701 700 690		00 02 87 00 08 34 00 02 94 00 04 87 00 08 71 00 03 38 00 01 04 00 03 65 00 03 66	
				कुल	00 00 14	

तालुका ४ कडेगांव		जिला ४ सांगली		राज्य ४ महाराष्ट्र			
क्रम सं.	गाव का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल		
१	२	३	४	५	६	७	८
४	अमरापुर		872		०३	०६	६७
			862		००	०२	१३
			834		००	०१	०९
			827		००	००	३७
			958		००	००	६१
			955		००	००	३८
			967		००	००	५६
			974		००	००	८३
			1015		००	००	७२
			1016		००	०१	२७
			1017		००	०२	१८
			1018		००	०६	९३
			1030		००	०३	५७
			1032		००	०१	८५
			1033		००	०१	७०
				कुल	००	३०	८४
५	येवलेवाडी		208		००	००	४२
			211		००	००	६०
			191		००	०२	७६
			173		००	०१	५६
			133		००	०४	३६
				कुल	००	०६	७०
६	बडिये रायदाग		1413	३	००	०१	८७
			1413	४	००	०४	१८
			1413	६	००	०१	२७
			1413	७	००	०२	१४
			1413	१५	००	०२	१६
			1383		००	००	५०
			1250		००	०२	८९
			1117		००	०२	००
			1116		००	११	३७
				कुल	००	२८	११
७	सेलकबाव		258		००	०२	१८
			372		००	०३	४३
			404		००	०४	८४
			411		००	०२	३९
			389		००	००	६५
			388		००	०४	२८
			384		००	०२	०९
			382		००	०३	७७
			566		००	००	४०
				कुल	००	२४	०३

[सं. सं. आर-31015/29/2004-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 23th December, 2005

S. O. 4758.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 1601, dated the 25th April, 2005, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), published in the Gazette of India dated the 30th April, 2005, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products through Mumbai-Pune Pipeline Extension Project from Loni (Pune) to Pakni (Solapur) (via Hazarwadi) in the State of Maharashtra by Hindustan Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 2nd September, 2005;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of this declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Taluka : KADEGAON		Dist : SANGLI		State : MAHARASHTRA			
Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area		
1	2	3	4	5	Hectare	Are	Sq.mt
1	UPALE VANGI	143		4 B	00	06	22
		146			00	00	86
				Total	00	07	08
2	UPALE MAYNI	157			00	01	37
		204			00	07	15
				Total	00	08	52
3	TONDOLI	261			00	02	87
		284			00	09	34
		295			00	03	94
		309			00	04	67
		318			00	06	71
		403			00	03	36
		701			00	01	04
		700			00	03	65
		690			00	03	56
				Total	00	39	14

Taluka : KADEGAON

Dist : SANGLI

State : MAHARASHTRA

Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area		
					Hectare	Acre	Dec. Hect.
1	2	3	4	5	6	7	8
4	AMRAPUR		872		00	06	67
			862		00	02	13
			834		00	01	09
			827		00	00	37
			958		00	00	61
			955		00	00	38
			957		00	00	56
			974		00	00	83
			1015		00	00	72
			1016		00	01	27
			1017		00	02	16
			1018		00	06	93
			1030		00	03	57
			1032		00	01	85
			1033		00	01	70
					Total	00	30
							84
5	YEVELEVADI		208		00	00	42
			211		00	00	60
			191		00	02	76
			173		00	01	56
			133		00	04	36
					Total	00	09
							70
6	VADRIYE RAYBAGH		1413	3	00	01	87
			1413	4	00	04	18
			1413	6	00	01	27
			1413	7	00	02	14
			1413	15	00	02	16
			1383		00	00	50
			1250		00	02	69
			1117		00	02	00
			1116		00	11	37
					Total	00	28
							18
7	SHELEGBAV		258		00	02	18
			372		00	03	43
			404		00	04	84
			411		00	02	39
			389		00	00	65
			388		00	04	28
			384		00	02	09
			382		00	03	77
			565		00	00	40
					Total	00	24
							83

नई दिल्ली, 23 दिसम्बर, 2005

का. आ. 4759.—केन्द्रीय सरकार वे पेट्रोलियम और ऊनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1709 तारीख 6 मई, 2005, जो भारत के राजपत्र तारीख 7 मई, 2005 में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में महाराष्ट्र राज्य में लोणी (पुणे) से पकड़ी (सोलापुर) तक हजारवाडी के रास्ते पेट्रोलियम उत्पादों के परिवहन के लिए मुम्बई-पुणे पाइपलाइन विस्तार परियोजना के माध्यम से हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 30 जुलाई, 2005, को उपलब्ध करा दी गई थीं;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह विवेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विलंगमों से मुक्त, हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड में जिहित होगा।

तालुका : कवठे महांकाल			जिला : सांगली		राज्य : महाराष्ट्र		
क्रम सं.	गाव का नाम	सर्वे नंबर	गट पंदर	उप-खण्ड संख्या	क्षेत्रफल		
					हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6	7	8
1	तिसगी		471		00	02	23
			484		00	01	19
			489		00	00	85
			500	व	00	02	50
			639		00	00	30
			669		00	05	43
			667		00	01	17
			865		00	11	27
			कुल		00	24	94
2	घाटबांडी		78		00	00	20
			183		00	01	27
			191		00	00	77
			248		00	00	42
			257		00	01	09
			283		00	01	54
			598		00	01	80
			595		00	04	06
			599		00	00	20
			594		00	00	40
			817		00	23	25
			823		00	07	83
			कुल		00	42	83

[फा. सं. आर-31015/30/2004-ओ.आर-II]

हरीश कुमार, अधर सचिव

New Delhi, the 23th December, 2005

S. O. 4759.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 1709, dated the 6th May, 2005, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), published in the Gazette of India dated the 7th May, 2005, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying pipeline for transportation of petroleum products through Mumbai-Pune Pipeline Extension Project from Loni (Pune) to Pakni (Solapur) via Hazarwadi in the State of Maharashtra by Hindustan Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 30th July, 2005;

And whereas the competent authority has, under sub-section (1) of section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the land specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of this declaration, in Hindustan Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Taluka : KAVTHE MAHANKAL		District : SANGLI		State : MAHARASHTRA			
Sr. No.	Name of the Village	Survey No.	Gat No.	Sub-Division No.	Area		
					Hectare	Are	Sq.mt
1	TISANGI		471		00	02	23
			484		00	01	19
			489		00	00	85
			500	B	00	02	50
			639		00	00	30
			669		00	05	43
			667		00	01	17
			665		00	11	27
				Total	00	24	94
2	GHATNANDRE		78		00	00	20
			183		00	01	27
			191		00	00	77
			248		00	00	42
			257		00	01	09
			283		00	01	54
			598		00	01	80
			595		00	04	06
			599		00	00	20
			594		00	00	40
			817		00	23	25
			823		00	07	83
				Total	00	42	83

[No. R-31015/30/2004-O.R.-II]
HARISH KUMAR, Under Secy.

श्रम मंत्रालय

नई दिल्ली, 11 जून, 2005

का. आ. 4760—भारतीय रेल अधिनियम, 1890 (1890 का 9) के अधीन बनाए गए रेल कर्मचारी (नियोजन के बाटे) नियम, 1961 के नियम 4(2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार श्रम मंत्रालय के संयुक्त सचिव, श्री जे.पी. पति को उक्त नियमों के तहत अपील सुनने के लिए अपील प्राधिकारी के रूप में अधिसूचित करती है।

[फा. सं. जैड-20025/14/2002-सी एल एस-I]
विनीता अग्रवाल, निदेशक

MINISTRY OF LABOUR

New Delhi, the 11th June, 2005

S.O. 4760—In exercise of the powers conferred by Rule 4 (2) of Railway Servants (Hours of Employment) Rules, 1961 under the Indian Railway Act, 1890 (9 of 1890) the Central Government hereby notifies Shri J.P. Pati, Joint Secretary in the Ministry of Labour as Appellate Authority to hear Appeals under the said Rules.

[F.No. Z-20025/14/2002-CLS.I]

VINITA AGARWAL, Director

नई दिल्ली, 28 नवम्बर, 2005

का. आ. 4761—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक आफ इंडिया के प्रबंधित तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकारण/श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 03/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2005 को प्राप्त हुआ था।

[सं. एल-12011/35/95-आई आर (बी-II)]

सी. गंगाधरन, अधर सचिव

New Delhi, the 28th November, 2005

S.O. 4761—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 03/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workman, which was received by the Central Government on 28-11-2005.

[No. L-12011/35/95-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, GUWAHATI,
ASSAM

PRESENT: Sri H.A. Hazarika,
Presiding Officer,
CGIT-cum-Labour Court,
Guwahati.

Ref. Case No. 3 of 2004

In the matter of an Industrial Dispute Between :—
The Management of Union Bank of India, Chandmari
VERSUS

Their Workmen Rep. by the,
General Secretary, Union Employees Union,
K.C. Road, Fancy Bazar, Guwahati-3.

Date of Award : 10-11-2005.

AWARD

The Government of India, Ministry of Labour, New Delhi, vide its Notification No.L-12011/35/95-IR (B-II) dated 23/05/2002 referred this Industrial Dispute arose between the employers in relation to the management of Union Bank of India and their Workmen for adjudication and to pass an award by exercising power conferred under Clause-(d) of Sub-Section (1) of Section 10 of the I.D.Act, 1947 for adjudication on the basis of the following Schedule :—

SCHEDULE

“Whether the action of the management of Union Bank of India to computerize the Guwahati (Main) Branch of the bank in terms of the settlement dated 29-10-1993 is legal and justified? If not, what relief is the aggrieved union entitled to?”

1. Record put up at “Lok Adalat” (People’s Court) today at Vishnu Nirmala Trust (Hall), Latasil, Guwahati-1.

2. Seen the compromise petition jointly signed by Sri R.R. Mahanti, Senior Manager, H.R. for the Management of Union Bank of India and Sri Jagannath Chakrabarty, General Secretary, Union Bank Employees Union, NER, which is signed and forwarded by the Conciliators, Sri Anilendra Nath Sarma and Sri Phanindra Nath Sarma; both of them are retired Judge of State Labour Court, Guwahati.

3. The compromise petition is accepted. The referred matter is disposed of on compromise with compromise award. Send this to Central Government as per procedure immediately.

H.A. HAZARIKA, Presiding Officer

BEFORE THE LOK ADALAT AT “BISHNU
NIRMALA TRUST”, LATASIL, GUWAHATI, IN
RELATION TO THE CGIT-CUM-LABOUR COURT,
GUWAHATI

Date : 10-11-2005

Ref. Case No. 3 of 2004

Union Bank of India

-Vs-

Union Bank Employees Union, (N.E.R.)

May it please your honour,

We the parties above named have arrived at a compromise/settlement in the above referred Case/dispute as no coercion or force/temptation has been made to any of the parties to arrive at the compromise.

We therefore request to record the compromise/conciliation/settlement made before the Lok Adalat and pass order/award accordingly today itself.

Terms of compromise/conciliation.

We have settled the dispute amicably.

Sd/-

Sd/-

Signature of
Management/Petitioner.

Signature of
Workman/

Sd/-

Sd/-

Signature of Advocate

Signature of Advocate

Sd/-

Signature of Conciliators.

नई दिल्ली, 28 नवम्बर, 2005

का. आ. 4762.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सालाह सेन्ट्रल रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/सं. I, हैदराबाद के पंचाट (संदर्भ संख्या आई टी-21 आफ 1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-11-2005 को प्राप्त हुआ था।

[सं. एल-41014/1/2005-आई आर (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 28th November, 2005

S.O. 4762.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. IT No. 21 of 1998) of the Industrial Tribunal No. I, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of South Central Railway and their workman, which was received by the Central Government on 25-11-2005.

[No. L-41014/1/2005-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I, AT HYDERABAD

PRESENT: M. Radha Kumari
Chairman, Industrial Tribunal-I, Hyd.
Dated: 19th day of November 2005.
Industrial Tribunal No.21 of 1998

BETWEEN :

Dakshina Madhya Railway
Porters Karmik Sangh
(BRMS & BMS)
Opp. P.M.R. High School
Ranganayakulapet
Nellore, Rep. by its President

..... Petitioner

AND

1. Additional Railway Manager
South Central Railway
Vijayawada, Krishna Dist, A.P.,

2. Chief Commercial Manager
South Central Railway
Secunderabad.

.. Respondents

Appearances: Sri. G. Vidya Sagar, Sri. K. Udyasree & Sri. P. Sudheer Rao, Advocates for the Petitioner. Sri. T.S. Venkata Ramana, Advocate & Standing Counsel for the Respondents.

AWARD

Government of India referred this Industrial Dispute for adjudication and to pass an Award in respect of:

Whether the action on the part of the Railway administration in not regularizing the services of the licensed porters (as per the list Annexure) employed at twenty two railway stations, is justified ?

It not, to what relief these licensed porters are entitled to ?

2. On receiving the said reference from the Government of India notices were issued to both the parties and both the parties made their appearances.

3. The averments of the claim statement made by the petitioner are as follows are—

The Petitioner-Union is a registered Trade Union having been registered under the provisions of the Trade Unions Act. The Porters working in Railway Stations referred to reference are members of the Petitioner-Union. The Union has raised dispute with regard to regularization of the services of the licensed porters working at 22 Railway Stations under the jurisdiction of the Additional Railway Manager, Vijayawada vide demand notice dated 8-1-1996. The dispute was admitted in conciliation on 25-1-1996. Ultimately the conciliation proceedings ended in failure and a failure report dated 4-12-1996 was submitted by the conciliation officer to the Government of India. The Government was pleased to refer the above dispute for adjudication to this Tribunal. The majority of the Railway Ports referred to in the annexure are working for the last 15 to 20 years and few of other have been working for the last 10 years as on the date of demand in 1996. The licensed porters are engaged in loading and unloading of the goods from the passengers' trains passing through the 22 Railway Stations. Initially they were being paid at the rate of Rs. 700 per month. Subsequently they are being termed as piece rated workers and thereby their monthly income has reduced to Rs. 100 to Rs. 150 per month. The member of the petitioner-union primary job is loading and unloading of the parcels from the break van of the

passenger's trains at different stages. They have been working under the directions and the guidance of the Railway Officials. The nature of the work of the porters of handling is permanent and perennial in its nature and it would keep the members of the Petitioner-Union continuously engaged. The Railway Administration is having control over the staff where the members of the petitioner-Union are performing the work of Railway Parcel Porters. They are being paid a meagre wages without getting the minimum scales of pay on par with regular Railway Parcel Porters engaged in the parcel offices. The Hon'ble Supreme Court in National Federation of Railway Porters, Vendors & Bearers Vs. Union of India, directed the Railway Administration to absorb the Railway Parcel Porters working in the Railways. Although the Petitioner-Union made a representation to absorb all the porters employed in the 22 Railway Stations, the respondent-railway administration has not implemented the judgment and absorbed the members of the Petitioner-Union into the main stream of the Railway. The said action part of the respondent is wholly arbitrary and unjustified. Names of the parcel porters in respect of Akivedu Railway Station are not properly referred to. Similarly in Bhimavaram Railway Station, the names of the following members have not been referred to. The Hon'ble Court may be pleased to hold that the action of the Respondent-Management in not regularizing the services of the Licensed Porters employed at 22 Railway Stations is not justified and consequently direct the respondent-management to absorb the licensed porters by extending the regular scales of pay attached to the post with all consequential benefits and pass such further or other orders as the Hon'ble Court deems fit and proper in the circumstances of the case.

4. It is correct that the said union raised a dispute dated 8-1-1996 before Regional Labour Commissioner/ Central/Hyderabad duly claiming regularization of 479 licensed porters engaged in loading and unloading of Railway parcels at 22 Railway Stations over Vijayawada Division. It is pertinent to mention here that they are licensed to carry luggage of the passengers on Railway Platforms on payment of portage charges by the passengers themselves. The Railway Administration has also been utilizing their services for short duration's intermittently for loading and unloading of railway parcels from break van of passenger carrying trains, if necessary, on payment of remuneration for the time engaged on the basis of Railway Boards letter dt. 8-6-1971. This engagement is only to supplement their source of income and not otherwise. The parcel handling work is neither their main job nor full time employment. The licensed porters are getting income from three

sources in a specific span of time i.e. from passengers for carrying their luggage, from Railways for handling their Railway booked parcels and from Merchant Community for carrying their parcels from Lorry to Parcel Office and Vice-versa. It is correct that Regional Labour Commissioner/Central/Hyderabad by letter dt. 4-12-1996 reported to the Secretary, Government of India, Ministry of Labour, New Delhi about failure of conciliation proceedings. The Railway Administration has no control over the licensed porters. The remuneration paid to licensed porters is depending upon volume of parcel traffic and their duration of engagement and not otherwise. Over the years, the Railways are losing parcel traffic due to stiff competition from road operators. As such, their engagement time is getting reduced over the years. The payments are being made to the licensed porters in terms of the Railway Board letter dt. 08-06-1971, which prescribes payment to the extent of engagement. It is incorrect to say that the members of the petitioners-union primary job is loading and unloading of the parcels from the break van of the passengers trains at different stages. It is incorrect to say that the members of the petitioners-union are continuously engaged by the Railway Administration. It is submitted that they were engaged as and when necessary for short duration in addition to their primary job of licensed porters i.e. carrying passengers' luggage. It is incorrect to say that members of the petitioners-union are being paid meagre wages without getting the minimum scales of pay on par with regular Railway Parcel Porters engaged in Parcel Office. It is submitted that they are licensed porters basically meant for carrying passengers' luggage. The Railway Administration has been utilizing the services of licensed porters intermittently for parcel handling at 22 stations over Vijayawada Division of South Central Railway where there are no permanent Railway Staff to handle parcels. In fact, the Railway Administration has been keeping its own staff to handle parcel traffic where there is a justification for posting of the Railway Staff. In other words, the Railway Administration has been utilizing its own employees to carry parcels from parcel office to Brake-van of passenger carrying train and vice-versa, where there is absolute justification for creation of such posts. The licensed porters are not being engaged by the administration for whole of the day. Their services are being engaged as and when Passenger Carrying train comes to station, to load and unload the parcels from brake-van attached to the passenger train. In other words, in a day except in the short duration of time their services are not being utilized by the Railway Administration. The Judgment of the Hon'ble Supreme Court of India in National Federation of Railway Porters, Vendors and Bearers is not applicable to this instant

case. The facts and circumstances of the said case are different from this case. In that case, the persons engaged for parcel handling are engaged by the Railway Administration on contract basis and more over their engagement is exclusive for parcel handling in nature. Whereas in case of licensed porters of 22 stations of South Central Railway their engagement is only supplementary in nature, in other words it is not their whole time job. Their main job is carrying passengers' luggage. As such the circumstances are different between these two cases and that judgment cannot be applicable to the facts of this case. It is pertinent to mention here that the licensed porters of Vijayawada Division had already approached the Hon'ble Supreme Court through W.P. No. 480 of 1990 for absorption into the Railway Establishment, but the Hon'ble Court rejected their claim by the judgment dated 6-5-1991. Secondly, the Hon'ble Supreme Court of India by its judgment dated 10-2-1997 in CA No. 752-753 of 1997 rejected the Central Administrative Tribunal/Hyderabad's Judgment in T.A. No. 3 of the 1992, wherein Tribunal directed the Railways to pay wages @ 1/30th of the minimum of the scale of pay of the luggage porter, to the licensed porter, when he was engaged for parcel handling for 8 hours a day. In view of the above pronouncements of Hon'ble Supreme Court, the Railway Administration need not pay the scale of regular employees to the Licensed Porters. However, it has been paying the licensed porters on hourly basis basing on the local market rate fixed by the District Collector, from time to time, in terms of Board letter dt. 8-6-1971. The Tribunal may be pleased to dismiss the Industrial Dispute with costs.

5. WW1 to WW4 were examined on behalf of the petitioner and Exs-W1 was marked. MW1 to MW4 were examined on behalf of the respondents and Exs-M1 to M8 were marked. The learned advocate for the petitioner as well as the learned advocate for the respondents submitted their written arguments and they are part and parcel of the record.

6. WW1 D. Souri is the licensed railway porter in Parcel Office, Nellore Railway Station. WW2 T. Kotayya is the porter at Chirala. WW3 is the licensed porter of Ongole parcel office. WW4 is the Sambasiva Rao, Senior Assistant of APSRTC at Nellore. As per the evidence of WW1 to 3 the railway porters in twenty two Railway Stations are working since twenty to twenty five years and few of them only since ten years. According to them the duty of the licensed porters of the parcel office is to load the parcel into the concerned train and receive the load and deposit the same in the parcel office. The parcel clerk assigned duties to them. They are being paid at Rs. 150/- (Rupees one hundred fifty only) per month. Their duty is only to loading and unloading parcel

goods. They performed duties as per the instructions of the railway authorities. In spite of repeated requests the authorities are not paying the minimum wages to them. Their duty hours are from 8.00 AM to 8.00 PM. The respondents are not assigning any reasons for not regularizing their services. All the porters concerned are working continuously without break of service. The porters who are working since four to five years at Vishakapatnam and Godavari Railway Stations and also Northern Zone were regularized but they were not regularized even for working since twenty to twenty five years in twenty two Railway Stations. WW1 admitted in his cross examination that they were getting less or more of Rs. 150 per month. He is not in position to give any reason for receiving such an amount. He also admitted that Muster Rolls would be maintained for licensed porters who were working in the parcel office. At this juncture, it is to be mentioned, as argued by the learned advocate for the respondents, that they have not chosen to get the said Muster Rolls Pay Acquaintance Registers etc., to show that they are under the direct control of the respondents-railways. WW2 admitted in his cross examination that initially they were appointed to carry the passenger luggage only and since 1976 they are carrying the luggage in parcel van. He further admitted that they were being paid basing on the quantum of work of loading and unloading the material which is being loaded belonging to the private parties. They will carry the same to the Platform even though he is saying that they are not collecting any amount from the private parties and they would carry the same on the instructions of the parcel clerk. According to WW1 to 4 they are working under the supervision of the parcel clerk and not carrying the passenger luggage. As already observed if they are working under the supervision of parcel clerk who is a permanent employee of the respondent-Central Government, there must be a Muster Roll showing the allotment of work to them but the petitioner has not chosen to get such Muster Roll from the office of the respondents. WW4 the Senior Assistant of APSRTC deposed that the petitioner union porters would carry the goods from the parcel office to the goods train vice-versa and they are working more than twenty years without any break and they have no time to attend the passengers work. He further deposed that they would work on the instructions of the Chief Parcel Officer. In the cross examination he deposed that he is going once in a month to the Railway Station and verified himself and he has seen the Muster Rolls in the Labour Department but those Muster Rolls are not forthcoming before this Court. He further deposed that he does not know whether there are any permanent porters in the Railway Stations. He denied the suggestion made to him that the petitioner union is engaged only to the

loading and unloading of the passenger luggage for which they are being paid by the passengers and that the parcel porters work is only a part time work but not full time work. On perusing his entire evidence I am of the opinion that he does not know anything and he deposed only to favour the petitioner union.

7. Coming to the evidence of the respondents, MW1 is the Chief Parcel Supervisor at Eluru Railway Station. His evidence is important to say how the petitioner union porters are working and how they are not entitled for the relief claimed by them. He deposed that he has got four parcel Supervisors and Assistants who work round the clock in shift system. The weighment of parcels would be done by parcel clerk. The merchants and others generally engaged licensed porters to carry the goods out of the station to parcel office weighing machine. After weighment and collection of charges the parcels would be kept in the parcel office. After announcement of the train the licensed porters would carry the parcels and put them in the parcel van in the train. The batch maistry would come and allot the number of porters required for each train. The Railways would pay them according to the number of hours engaged. There are forty porters at Eluru Railway Station and each porter would work in an average for two hours per day. Average income for each porter is Rs. 300 to 400 per month. He further deposed that they would attend to the passenger luggage for loading and unloading also by adjusting themselves. There are no permanent porters attached to the parcel office. These porters after loading and unloading free themselves and do any other work. He further deposed that the private persons themselves engaged the porters for taking the goods from parcel office to out of the station and they themselves pay to the porters. The petitioner union porters are not under their control. In the cross-examination also he deposed that they are paying to the petitioner-porters on hourly basis and denied the suggestion made to him that each batch works continuously for twenty hours and even for six to eight hours. He also denied the suggestion made to him that these porters do not attend to the loading and unloading work of the passengers luggage. He further deposed that the permanent porters at Station like Rajahmundry, Godavari, Vijayawada etc., only under their control and they are not being permitted to carry the luggage of the passengers. So on perusing his evidence it is clear that the petitioner-porters are not under the control of Railways and they are not full time workers like that of permanent porters and they would work for only few hours at the instructions of their maistry at the time of loading and unloading of parcels.

8. MW2 is the Chief Parcel Supervisor, Nellore Railway Station and he also deposed that the petitioner-

porters do the service in rotation as per their own adjustments and they also attend to loading and unloading of the passengers luggage for which they received remuneration from the passengers. They have no control over the petitioner-porters and they themselves fixed the shift system. They are being paid on hourly basis.

9. WW3 is the Chief Commercial Inspector of twelve stations parcel booking and other commercial transactions. He also deposed like that of the other two witnesses that the petitioner-porters are only the part time porters as they would come after the announcement of the train and leave the parcel office after train leaves the station. They also carry the passenger luggage and collect money from them. They would attend the work in batches as decided by their maistry and they have no control over them. The payment would made on hourly basis.

10. MW4 is the Assistant Commercial Manager of Vijayawada Railway Station. He deposed like that of MWs 1 to 3 by stating that they have no control over the petitioner porters and they would work maximum of fifteen minutes. They are being engaged mainly by passengers for carrying their luggage and being paid by them. Merchants also engaged them for carrying their luggage to parcel office and pay them. Except at the time of the arrival of the train they do not have any control over the porters. He produced the conditions of the licensed porters under Exs-M1 to M3. Ex-M4 is a time table in respect of porters rate charges and M5 is the list of licensed-porters at twenty two Railway Stations.

11. On perusing the entire evidence discussed above it is clear that the contention of the petitioner-union porters is that they are working since twenty to twenty five years under Twenty two Railway Stations as porters under the control of the booking clerk and exclusively doing the work of the railways and thereby they are liable to be regularized in par with the regular porters. According to them they are not being attending the work of the passengers in loading and unloading and carrying their luggage and not being paid by them. At the outset except the interested version of WW1 to WW3 there is no evidence to prove the same. If really they are the full time workers of the respondents, as admitted by them, there is a Muster Roll and they have not chosen to get the same before this Court. Merely because they are working since a long time they are not entitled to be regularized as they are being engaged by their maistry only and they are not under the control of the respondents from the evidence discussed above. On perusing the evidence of MWs 1 to 4 it is clear that they are only part time workers having work for fifteen

minutes only and they would leave after the train leaves and attend their own work mainly the work of the passengers and merchants etc., and being pain by them. MWs 1 to 4 are official witnesses and no motive was attributed to them to speak falsehood against the Petitioner-Porters and I have no reason to disbelieve them coupled with Exs-M1 to M8 etc.

12. According to the respondents, the petitioner-porters are not under their control and they being engaged by their maistry only whenever there is necessity of loading and unloading at the parcel office on the arrival of the train and they would attend for a while of fifteen minutes and not full time porters as that of permanent porters who would attend the work of loading and unloading normally and occasionally only they are utilizing services of these porters. They are mainly attending and carrying the luggage of passengers from Railway Station to the outside after being loading and unloading. They are getting income from three sources (1) from the passengers for carrying their luggage (2) from the merchant for carrying their parcels from outside parcel office to parcel office and vice-versa (3) from the railways for carrying their parcels from parcel office to break work. On perusing the evidence discussed above it is clear that the petitioner-porters were never under the Pay Rolls/Muster Rolls and under the control of the railways. As argued by the learned advocate for the respondents the petitioner has not produced any appointment orders, salary slips etc., to show that they working like that of permanent porters. As per the arguments of the learned advocate for the respondents as per the Circular dated 18-11-2003 of the railways instructing not to utilize the licensed porters for parcel handling and thereby they stopped utilizing their services at twenty two railway stations for loading and unloading of parcels into break van and he produced the said circular before the Court. So in view of my above discussion it is clear that the petitioner-porters are not under the control of the respondents and they are only part time porters being engaged by themselves on the arrival of the train to the parcel and their main source of income is from the passengers and merchants for carrying their luggage and parcels respectively from outside the station to the station and vice-versa and being paid by them only. They are not under the control of and Muster Rolls of the respondents. So it is not possible for the respondents to regularize all these porters as that of permanent porters as claimed by them and to pay as that of the permanent porters even though there is no work to them and they are doing their own work of carrying passengers luggage merchants parcels etc., as enumerated above.

13. As argued by the learned advocate for the respondents, the decision of the Apex Court in W.P. No. 507/1992 along with W.P. Nos. 415/92 and 82/93 are not

applicable to the facts of the present case and on the other hand on perusing W.P. No. 480/1990 dated 6-5-91 relied upon by the learned advocate for the respondents it is clear that the licensed porters have raised all these pleas before the Apex Court and the Apex Court was pleaded to dismiss the said writ petition through the order dated 6-5-1991. On perusing the said decision it is clear that the Hon'ble Supreme Court of India not accepted the claim of these licensed porters in the said writ petitions. On that ground itself this Industrial Dispute must be dismissed. The learned advocate for the respondents also brought to the notice of the Court that the judgement of the Apex Court in Civil Appeal Nos. 9378/95 and 9379/95 dated 30-10-1996 in which the Hon'ble Supreme Court of India opined that the Casual Labour having temporary status is not entitled to the wages at par with the licensed porters and further held that the licensed porters cannot be treated at par with even the casual labour engaged by the railways. In view of my above discussion it is clear that there no merits in this Industrial Dispute and thereby liable to be dismissed.

14. In the result, the Industrial Dispute in I.D. 21/1998 is hereby dismissed answering the reference that the action of the Railway administration in not regularizing the services of the licensed porters employed at twenty two Railway Stations is justified and they are not entitled for any relief.

Dictated to the Junior Stenographer, transcribed by him, corrected by me and the seal of this Court on this the 19th day of November, 2005.

M. RADHA KUMARI, Chairman

APPENDIX OF EVIDENCE

Witnesses Examined for Petitioner

WW1 : D. Souris

WW2 : T. Kotaiah

WW3 : V. Veeriah

WW4 : G.V. Sambasiva Rao

Witnesses Examined for Respondent

MW1 : T. Saigopal

MW2 : K. Madhava Rao

MW3 : S.Siva Prasad

Reddy

MW4 : M.Papa Rao

Documents marked for the Petitioner

Ex.W1 : Conciliation Failure Report.

Documents marked for the Respondent (By consent)

Ex.M 1 : Xerox copy of license issued to K.M. Kotswar Rao

Ex.M 2 : Xerox copy of license issued to G. Chandra Mohan.

Ex.M 3 : Xerox copy of license issued to P. Venkateswara Rao.

Ex.M 4 : Xerox extract of time table and charges.

Ex.M 5 : Statement of Licensed porters.

Ex.M 6 : Statement of Trends in Parcel Traffic.

Ex.M 7 : Statement.

Ex.M 8 : Xerox copy of licensed Remuneration Bill.

नई दिल्ली, 29 नवम्बर, 2005

का. आ. 4763.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक आफ इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 19/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2005 को प्राप्त हुआ था।

[स. एल-12011/131/2003-आई.आर-(बी-II)]

सौ. गंगाधरन, अधिकारी सचिव

New Delhi, the 29th November, 2005

S.O. 4763.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award [Ref. No. 19/2004] of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Guwahati as shown in the Annexure in the Industrial dispute between the management of Union Bank of India and their workmen, received by the Central Government on 28-11-2005.

[No. L-12011/131/2003-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE**IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM****Present:**

Sri H.A. Hazarika,
Presiding Officer,
CGIT-cum-Labour Court,
Guwahati

Reference Case No. 19 of 2004

In the matter of an Industrial Dispute between :—
The Management of Union Bank of India, Chandmari.

Vrs.

Their Workmen rep. by the
General Secretary, Union Employees Union,
K.C. Road, Fancy Bazar, Guwahati-3.

Dated of Award : 10-11-05

AWARD

1. The Government of India, Ministry of Labour New Delhi, vide its Notification No. L-12011/131/2003-IR (B-II) dated 18-09-2003 referred this Industrial Dispute arose

between the employers in relation to the management of Union Bank of India and their Workmen for adjudication and to pass an award by exercising power conferred under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the I.D. Act, 1947 for adjudication on the basis of the following Schedule :

SCHEDULE

“Whether the action of the management of Union Bank of India by not filling up the post of Head Cashier Category ‘E’ at the erstwhile SSB, Chandmari Branch, Guwahati on permanent basis (thereby discontinuing the officiating arrangement) w.e.f. 17-9-2001 is justified? if not, what relief the eligible employees are entitled to ?”

2. Record put up at “Lok Adalat” (People’s Court) today at Vishnu Nirmala Trust (Hall), Latasil, Guwahati-1.
3. Seen the compromise petition jointly signed by Sri R.R. Mahanti, Senior Manager, H.R. for the Management of Union Bank of India and Sri Jagannath Chakrabarty, General Secretary, Union Bank Employees Union, NER, which is signed and forwarded by the Conciliators, Sri Anilendra Nath Sarma and Sri Phanindra Nath Sarma, both of them are retired Judge of State Labour Court, Guwahati.
4. The compromise petition is accepted. The referred matter is disposed of on compromise with compromise award. Send this to Central Government as per procedure immediately.

H.A. HAZARIKA, Presiding Officer

BEFORE THE LOK ADALAT AT “BISHNU NIRMALA TRUST”, LATASIL, GUWAHATI, IN RELATION TO THE CGIT-CUM-LABOUR COURT, GUWAHATI

Date : 10-11-2005

Reference Case No. 19 OF 2004

Union Bank of India, Guwahati

Vrs.

G.S.U.B.T. Union,
NER, Guwahati

May it please your honour,

We the parties above named have arrived at a compromise/settlement in the above Referred Case dispute. No coercion or force/temptation has been made to any of the parties to arrive at the compromise.

We therefore request to record the compromise/conciliation/settlement made before the Lok Adalat and pass order/award accordingly today itself.

Terms of compromise

We have settled the dispute amicably

Sd./-(illegible) Sd./-(illegible)

Signature of Management/Complainant/Petitioner. Signature of Workman/Opposite party.

Signature of Advocate. Signature of Advocate

Sd./-(illegible)

Signature of Conciliators.

नई दिल्ली, 29 नवम्बर, 2005

का.आ. 4764—औदोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार यूनियन बैंक और इंडिया के प्रबंधालंब के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्देश औदोगिक विवाद में केन्द्रीय सरकार औदोगिक अधिकारक/अध्यक्ष व्यावालय युलाहटी के पंचाट (संदर्भ संखा 16/2004) को प्रत्याहित करती है, जो केन्द्रीय सरकार को 28-11-2005 को प्राप्त हुआ था।

[सं. एल-12011/53/2003-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 29th November, 2005

S.O. 4764 —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award Ref. No. 16/2004 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Guwahati as shown in the Annexure, in the Industrial Dispute between the management of Union Bank of India and their workmen, which was received by the Central Government on 28-11-2005.

[No. L-12011/53/2003-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present:

Sri H.A. Hazarika, Presiding Officer,
CGIT-cum-Labour Court, Guwahati

Ref. Case No. 16 of 2004

In the matter of an Industrial Dispute between :—

The Management of Union Bank of India,
Guwahati.

Vrs.

Those Workmen rep. by the, General Secretary, Union
Bank Employees Union, K.C. Road, Fancy Bazar,
Guwahati-3.

Dated of Award : 10-11-2005

AWARD

1. The Government of India, Ministry of Labour, New
Delhi, vide its Notification No. L-12011/53/2003-IR (B-II)
dated 24-06-2003 and 18-7-2003 referred this Industrial
Dispute arose between the employers in relation to the

management of Union Bank of India and their Workmen
for adjudication and to pass an award by exercising
power conferred under Clause (d) of Sub-section (1) and
Sub-section (2A) of Section 10 of the I.D. Act, 1947 for
adjudication on the basis of the following Schedule :—

SCHEDULE

“Whether the action of the management of Union
Bank of India in not appointing Smt. Menaka Das
and Shri Parashu Ram Mudoi as Computer
Operator w.e.f. 10-8-1999 and 24-12-1999
respectively and also action of the management in
imposing bar on Smt. Das and Shri Mudoi against
their appointment as Computer Operator is
justified? If not, what relief Smt. Das and Shri
Mudoi is entitled to?”

2. Record put up at “Lok Adalat” (People’s Court)
today at Vishnu Nirmala Trust (Hall), Latasil, Guwahati-1.

3. Seen the compromise petition jointly signed by Sri
R.R. Mahanta, Senior Manager, H.R. for the Management
of Union Bank of India and Sri Jagannath Chakrabarty,
General Secretary, Union Bank Employees Union, NER,
which is signed and forwarded by the Conciliators, Sri
Anilendra Nath Sarma and Sri Phanindra Nath Sarma,
both of them are retired Judge of State Labour Court,
Guwahati.

4. The compromise petition is accepted. The referred
matter is disposed of on compromise with compromise
award. Send this to Central Government as per procedure
immediately.

H.A. HAZARIKA, Presiding Officer

BEFORE THE LOK ADALAT AT “BISHNU
NIRMALA TRUST”, LATASIL, GUWAHATI, IN
RELATION TO THE CGIT-CUM-LABOUR COURT,
GUWAHATI

Dated : 10-11-2005

Ref. Case No. 16 of 2004.

Union Bank of India, Guwahati

Vs.

Workmen represented by G.S. Employees Union,
NER, Guwahati

May it please your honour,

We, the parties above named have arrived at a
compromise/settlement in the above Referred Case. No
coercion or force/temptation has been made to any of
the parties to arrive at the compromise/conciliation.

We, therefore, request to record the compromise/
conciliation/settlement made before the Lok Adalat and
pass order/award accordingly today itself.

Terms of compromise

We have settled the matter amicably

Sd./-(Illegible)

Sd./-(Illegible)

Signature of Management/
Complainant/Petitioner.

Signature of Workman/
Opposite party.

Signature of Advocate

Signature of Advocate

Sd./-(Illegible)

Signature of Conciliators.

नई दिल्ली, 29 नवम्बर, 2005

का. आ. 4765—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय गुवाहाटी के पंचाट (औद्योगिक विवाद धारा 33ए के अंतर्गत औद्योगिक विवाद संख्या 02/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2005 को प्राप्त हुआ था।

[सं. एल-12025/3/2005-आई.आर. (बी-II)]

सी. गंगाधरण, अध्यक्ष सचिव

New Delhi, the 29th November, 2005

S.O. 4765. —In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Cent. Government Indus. Tribunal-cum-Labour Court, Guwahati (filed under Section 33-A in the matter of Ref. No. 02/2004 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workmen, which was received by the Central Government on 28-11-2005.

[No. L-12025/3/2005-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL— CUM-LABOUR COURT, GUWAHATI, ASSAM

PRESENT: Sri H.A. Hazarika, Presiding Officer,
CGIT-cum-Labour Court, Guwahati

Case No. 2 of 2004

In the matter of a complaint under Section 33A of the Industrial Dispute Act between :—

Union Bank Employees Union (NER), K. C. Road,
Fancy Bazar, Guwahati-1

Vrs.

The Management of Union Bank of India, Chandmari.

Date of Award : 10-11-2005

AWARD

1. 12-5-04 Received an application Union Section 33-A of the Industrial Dispute Act apprehending violation of condition of service during the pendency of the Ref No. 10(C)/02.

The case is registered and number as Case No. 15(C) of 2004.

Now issue notice to the opposite party to opposite party to file their objection on or before 18-5-2004 and objection hearing.

H. A. HAZARIKA, Presiding Officer

2. Record put up at "Lok Adalat" (People's Court)

today at Vishnu Nirmala Trust (Hall), Latasil, Guwahati-1.

3. Seen the compromise petition jointly signed by Sri R. R. Mahanti, Senior Manager, H. R. for the Management of Union Bank of India and Sri Jagannath Chakrabarty, General Secretary, Union Bank Employees Union, NER, Which is signed and forwarded by the Conciliators, Sri Anilendra Nath Sarma and Sri Phanindra Nath Sarma, both of them are retired Judge of State Labour Court, Guwahati.

4. The compromise petition is accepted. The case received is disposed of on compromise with compromise award. Send this to Central Government as per procedure immediately.

H. A. HAZARIKA, Presiding Officer

BEFORE THE LOK ADALAT AT "BISHNU NIRMALA TRUST", LATASIL, GUWAHATI, IN RELATION TO THE CGIT-CUM-LABOUR COURT, GUWAHATI

Dated : 10-11-2005

Case No. 2 of 2004

Union Bank of India,

Vrs.

G. S. Union Bank Employees' Union, NER.

May it please your honour,

We the parties above named have arrived at a compromise/settlement in the above Misc. Case/Case/Dispute. No coercion or force/temptation has been made to any of the parties to arrive at the compromise/conciliation.

We therefore request to record the compromise/conciliation/settlement made before the Lok Adalat and pass order/award accordingly today itself.

Terms of compromise

We have settled the matter amicably

Signature of Management/ Complainant/Petitioner. Signature of Workmen/ Opposite party

Signature of Advocate Signature of Advocate

Signature of Conciliators.

नई दिल्ली, 29 नवम्बर, 2005

का. आ. 4766.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण गुवाहाटी के पंचाट (औद्योगिक विवाद धारा 33 ए के अंतर्गत औद्योगिक विवाद संख्या 03/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2005 को प्राप्त हुआ था ।

[सं. एल-12025/3/2005-आई.आर. (बी-II)]
सी. गंगाधरण, अवर सचिव

New Delhi, the 29th November, 2005

S.O. 4766.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati (filed under Section 33-A in the matter of Ref. No. 03/2004) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workmen, which was received by the Central Government on 28-11-2005.

[No. L-12025/3/2005-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

PRESENT: Sri H.A. Hazarika,
Presiding Officer,
CGIT-cum-Labour Court,
Guwahati

Case No. 3 of 2004

In the matter of a complaint under Section 33A of the Industrial Dispute Act between :—

The General Secretary, Union Bank Employees Union,
K. C. Road, Fancy Bazar, Guwahati-3

Vrs.

The Management of Union Bank of India, Chandmari.

Date of Award : 10-11-2005

AWARD

16-6-04 Received a petition Under Section 33-A of the Industrial Dispute Act filed by the Secy. Union Bank Employees Union-Petitioner alleging that the management has violated the prohibitory order as passed on 18-5-2004 by this Tribunal.

Registered a Misc Case No. 16(C) of 2004.

Issue show-cause notice upon the management-
Q.P. to show cause as to why a appropriate action
should not be taken fixing 9-7-04.

H. A. HAZARIKA, Presiding Officer

BEFORE THE LOK ADALAT AT "BISHNU NIRMALA TRUST", LATASIL, GUWAHATI, IN RELATION TO THE CGIT-CUM-LABOUR COURT, GUWAHATI

Date : 10-11-2005

Case No. 3 of 2004

Union Bank of India,

Guwahati

Vrs.

G. S. Union Bank Employees Union NER.

May it please your honour,

We the parties above named have arrived at a compromise settlement in the above Case mentioned below. No coercion or force/temptation has been made to any of the parties to arrive at the compromise.

We therefore request to record the compromise/conciliation/settlement made before the Lok Adalat and pass order/award accordingly today itself.

Terms of compromise/Conciliation.

We have settled the matter amicably

Signature of Management/ Complainant/Petitioner. Signature of Workman/ Opposite party.

Signature of Advocate Signature of Advocate

Signature of Conciliators.

नई दिल्ली, 29 नवम्बर, 2005

K.A. 4767.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार यूनियन बैंक आफ इण्डिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण गुवाहाटी के पंचाट (औद्योगिक विवाद धारा 33 ए के अंतर्गत औद्योगिक विवाद संख्या 01/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2005 को प्राप्त हुआ था ।

[सं. एल-12025/3/2005-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 29th November, 2005

S.O. 4767.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati (filed under Section 33-A in the matter of Ref. No. 01/2005) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Union Bank of India and their workmen, which was received by the Central Government on 28-11-2005.

[No. L-12025/3/2005-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL—
CUM-LABOUR COURT, GUWAHATI, ASSAM.PRESENT: Sri H. A. Hazarika, Presiding Officer, CGIT—
cum-Labour Court, Guwahti.

Case No.1 of 2005.

In the matter of a complaint under Section 33A of the
Industrial Dispute Act

BETWEEN:

The General Secretary, Union Bank Employees Union, K.C.
Road, Fancy Bazar, Guwahti -3.

VRS

The Chairman & Managing Director of Union Bank of
India, Chandmari.

Date of Award : 10-11-2005.

AWARD

1. Seen the petition U/s 33-A of the Industrial
Dispute Act. 1947, filed by the General Secretary, Union
Bank Employees Union (NER) Ghy.Heard Sri Jagannath Chakrabarty. The petition is
admitted for hearing. Register it as a Case and issue notice
to the O.P. to show cause as to why the prayer of the
petitioner should not be allowed fixing 04-04-2005.

Petitioner will take steps within 3 days.

H.A. HAZARIKA, Presiding Officer

2. Record put up at "Lok Adalat" (People's Court)
today at Vishnu Nirmala Trust (Hall), Latasil, Guwahti-1.3. Seen the compromise petition jointly signed by
Sri R.R. Mahanti, Senior Manager, H.R. for the Management
of Union Bank of India and Sri Jagannath Chakrabarty,
General Secretary, Union Bank Employees Union,
NER, Which is signed and forwarded by the Conciliators,
Sri Anilendra Nath Sarma and Sri Phanindra Nath Sarma,
both of them are retired judge of State Labour Court,
Guwahti.4. The compromise petition is accepted. The case
received is disposed of on compromise with compromise
award; Send this to Central Government as per procedure
immediately.

H.A. HAZARIKA, Presiding Officer

BEFORE THE LOK ADALAT AT
"BISHNU NIRMALA TRUST" LATASIL,
GUWAHATI,
IN RELATION TO THE CGIT -CUM-LABOUR
COURT, GUWAHATI.

Date :— 10-11-2005.

Case No:— 1 of 2005.

Union of India -vs- G.S.Union Bank

Employees Union ,NER

May it please your honour,

We the parties above named have arrived at a
compromise/ settlement in the above Case dispute as per
No coercion or force/ temptation has been made to any
of the parties to arrive at the compromise.We therefore request to record the compromise /
conciliation/settlement made before the Lok Adalat and
pass order /award accordingly today itself.

Terms of compromise,

We have settled the matter amicably

Sd/- Illegible	Sd/- Jagannath Chakrabarty
Signature of management	Signature of Workman.
Complainant/Petitioner	Opposite party.
Signature of Advocate	Signature of Advocate.
	Sd/-
	Signature of conciliators.

नई दिल्ली, 30 नवम्बर, 2005

का. आ. 4768.— औद्योगिक विचार अधिनियम, 1947 (1947
का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट
के प्रबंधतात्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध
में निर्दिष्ट औद्योगिक विचार में केन्द्रीय सरकार औद्योगिक अधिकारण/
त्रिम न्यायालय मुम्बई नं 1 के पंचाट (संदर्भ संख्या 12/2001) को
प्रकाशित करती है, जो केन्द्रीय सरकार को 30-11-2005 को प्राप्त
हुआ था ।

[सं. एल- 31011/1/2001-आई.आर.(एम.)]

सी. गंगाधरण, अवर सचिव

New Delhi the 30th November 2005

S.O. 4768.—In pursuance of Section 17 of the
Industrial Disputes Act, 1947 (14 of 1947), the Central
Government hereby publishes the Award (Ref. No.12/
2001) of the Cent. Govt. Indus. Tribunal -cum-Labour Court,
Mumbai No. 1 as shown in the Annexure, in the industrial
dispute between the management of Mumbai Port Trust,
and their workmen, received by the Central Government
on 30/11/2005

[No-L- 31011/1/2001-IR(M)]

C. GANGADHARAN, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1
MUMBAI
PRESENT:

JUSTICE GHANSHYAM DASS

Presiding Officer

REFERENCE NO. CGIT -12 OF 2001

PARTIES : Employers in relation to the management of Mumbai Port Trust

AND

Transport and Dock Workers Union.

Appearances :

For the Management : Mr. M. B. Anchan, Adv.
 For the Union : Mr. Koyande Adv.
 State : Maharashtra

Mumbai the 8th day of November, 2005.

AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub section 1 of Section 10 of the Industrial Disputes Act 1947 (the Act for short) vide Government of India, Ministry of Labour, New Delhi Order No. L-31011/1/2001/IR (M) dated 20/3/2001. The terms of reference given in the schedule are as follows :

“Whether the action of the management of MBPT in deducting 20 days wages from 1-8-1998 to 20-8-1998 of General Purpose Mazdoors (GPMs) and not paying the difference of wages from 1-3-1994 for having deployed in place of Sr. Workers is legal and justified? If not, to what relief the workmen are entitled to?”

2. The Transport and Dock Worker’s Union, Mumbai (hereinafter referred to as ‘Union’) filed the Statement of claim dated 28-9-2001 through its President.

3. In reply to the aforesaid Statement of Claim, the Mumbai Port Trust (hereinafter referred to for short as MBPT) has filed the Written Statement dated 01-5-2002.

4. The Union filed a Rejoinder dated 05/9/2002. The Predecessor in Office framed the following Issues on 28-10-2002.

(a) Whether the Mumbai Port Trust had paid the differential wages for taking the work of senior workers (i.e. Stevedore workers like Winch drivers, Hatch Foreman, and Tindels) from General Purpose Mazdoors from 1-3-1994 as and when the work was taken from them?

(b) Whether the Mumbai Port Trust authorized to deduct wages of 20 days for the period of 1-8-1998 to 20-1-1998?

(c) What relief, if any, can be granted to workmen?

6. The Union led evidence in the form of affidavit sworn and affirmed by Shri. Ram Kanaiah Yadav. The

MBPT led the evidence in the form of affidavit sworn and affirmed by Shri Ramesh Shivaram Gadawale.

7. The parties have also filed written submissions. I have also heard oral submissions made by the parties. I have also perused the records.

8. The case of the Union is that the workmen employed by MBPT are distributed in different categories. Each category has approved duty list and the concerned workmen are deployed for work accordingly. The category included in the instant reference is General Purpose Mazdoors (GPM). They were registered as GPMs with Ex. Bombay Dock Labour Board (Ex-PBDLB) on 01-6-1983. After the registration a meeting was held on 09-12-1986 with the management and approved duty list was prepared. The BDLB was merged in the MBPT on 01-4-1994 and all categories of workmen registered with the Board were absorbed as employees of MBPT and thus they became employees of MBPT. In the year 1993, about 640 GPMs were promoted to the category of Senior workers. They have different wage scales. In respect of the promotion there was shortage in supply of Senior workers, Winch Drivers, Hatch Foreman, and Tindels. Therefore, large number of GPMs are deployed to work as Senior workers on day to day basis. The GPMs duty list does not include the duties of the work performed by the Stevedore workers i.e. Senior workers, Winch Drivers, Hatch Foreman and Tindels but with the intention that the work may not hamper; The Union agreed to the proposal of MBPT that GPMs will perform the duties of Senior workers for which they will be paid higher wages. The GPMs were deployed as Senior workers but they have not been paid the differential wages w.e.f. 01-3-1994. However, the GPMs continued to work as Senior workers. In the year 1997, a meeting to resolve the dispute of non-payment of differential wages was held with the MBPT and it was agreed that the differential wages would be paid. Accordingly, a committee was formed consisting of Dy. Manager (OBL) and CPIRM both Officers of MBPT and a Senior Representative of the Union. However, MBPT calculated the amount of differential wages on its own without consulting the Union and paid the differential wages which were not sufficient. The demand for non-payment went on. At last, the GPMs refused to work as Senior workers w.e.f. 01-8-1998. They did not refuse to work to the duties of G.P.Ms. They did not resume the work of Senior workers upto 20-8-1998. Thereafter, they resumed duties on receiving a warning letter from the MBPT. The management deducted the wages for the aforesaid period.

9. The contention of the Union is that it appears to be wrong on the face of it on the part of the management for not paying the differential wages to the GPMs who had been deployed to work as Senior workers as compact gang, since it is the admitted position that the differential wages have been paid to the GPMs when they are being

deployed in case of short supply of one or two senior workers. The GPMs never refused to perform duties of GPMs as such and hence the action of the management in deducting the wages is illegal.

10. The contention of the management is that whenever the GPMs are booked in the Stevedoring gang due to shortage of Stevedoring workers as a replacement, they are being paid the differential wages of Senior stevedore workers; but if they are asked to work as a Compact gang for stevedoring work, they are not entitled for differential wages on account of their deployment in accordance with duties and the manning scale of GPM workers. As per Memorandum of Agreement dated 03-12-1991 the condition of interchangeability was agreed upon by Clause (ii) and Clause (iii) of the said agreement which are quoted as below :

Clause (ii) : The workers agree to do work allotted to them by the Bombay Dock Labour Board and no distinction will be made of separate Schemes as existed hereinbefore. All Schemes other than "Chipping and Painting Workers Scheme" would be merged as one single scheme for cargo handling workers of Port and appropriate amendments would be made in the respective Schemes to ensure that the schemes are merged into one. Chipping and Painting Workers will be absorbed in the CME's Department of the Bombay Port Trust as and when the scheme becomes viable. However workers in higher grade would not be asked to carry out work done by lower grade workers except in cases where the workers are upgraded as per the agreement with the Unions. It is hereby understood clearly that there could be interchangeability between workers belonging to different schemes such as Clearing and Forwarding, Food grain, GPM and Senior workers of Stevedoring scheme, etc."

Clause (iii) : Any labour which in the opinion of the Bombay Dock Labour Board is rendered surplus will be suitably redeployed after necessary training is given to them."

The duty list and the manning scale were approved in the meeting dated 09-12-1986. The duties of the G.PMs are as follows:

Workers on Shore

"All types of jobs which are not carried out either by the registered Stevedore workmen or B.P.T. workmen or Chipping & Painting Workers, shall be done by the G.P.M. Workers including the following:

7. "Whenever the work at a point is completed and/or otherwise the work on the vessel is completed the G.PMs shall go over to any other point or vessel under the same Registered employer. Whenever G.P.M. gangs and Complement thereto are booked for specific jobs as per manning scale, such workmen shall carry out

any other work on the same basis of the manning scale in case the jobs for which they were booked originally cannot be carried out."

8. G.PMs shall carry out such other work as duly approved from time to time. Whenever it is found that B.P.T. shed is either congested and/or otherwise difficulties are there for making the room for receipt of further cargo the G.PMs on specific instructions being issued in this regard shall carry out such work and do everything with a view to cause room being created for receipt of such cargo."

11. In view of the above, the management has alleged that it had the right to deploy the G.PMs as Compact gang to work as Senior workers since the approved manning scale of 1+7 i.e. One Tindel and 7 G.P.M. at Sr. No. 8 of the manning scale was there as part of the duty list for the G.P.M.s to work in place of Stevedoring work. Since G.P.M. refused to work in place of Stevedoring work for the admitted period w.e.f. 01-8-98 to 20-8-98, the management was right in deducting the wages keeping in mind the formula of "No work, No Pay". The refusal on the part of the Union for the aforesaid period was illegal. The management also alleged that in view of the meeting with the Union on 26-5-1998, the management decided to form 80 gangs of G.PMs but the gangs could not be actually formed in view of stiff resistance from the warring groups of the workers.

FINDING :

12. On the basis of the evidence filed on record, this much is clear that the G.PMs were deployed to work as Senior workers as and when shortage of senior workers was there. The deployment had been sometimes by replacing one or two workers only and sometimes as a Compact Gang which consisted of 1+7 in accordance with the manning scale. It is also the admitted position that whenever the G.PMs were being deployed as replaced to cover up the shortage of one or two Stevedoring workers, the differential wages were paid by the management to the G.PMs. The dispute which lies in between the workers and the management is with respect to non-payment of differential wages when the G.PMs were being deployed to work as Senior workers as a Compact gang.

13. The contention of the management appears to be right in view of the meetings with the Union from time to time. The relevant portions have already been quoted above. The manning scale is admittedly there. The duties of the G.PMs at Serial No.8 clearly implies that the G.PMs could be well asked to work as compact gang i.e. 1+7 for stevedoring work. In this view of the matter the Union has no right to raise the objection. However, I feel that the objection of the Union appeared to be right if the legal position of "Equal pay for Equal work" is kept in mind and that being so the management should pay the differential

wages to the Compact gang as well and cannot escape the liability by saying that it would amount to promotion of the entire lot. But the agreement arrived at in between the Union and the management debars the Union from claiming the differential wages as a right if the G.PMs are asked to work as a Compact gang for stevedoring work. Had there been no agreement in between the Union and the Management for manning scale of duties etc. the Union would have been right in claiming the differential wages. The management also realized the grievances of the workers and for this another meeting was held in 1998 and to help the workers, it was agreed to form 80 Gangs. However, this formation of gang could not be materialized in view of stiff resistance by the erstwhile workers. The matter is still hanging on. It needs consideration for early solution of the problem on the part of the management. Till the solution is made, I feel the Union in the instant reference cannot claim as of right the differential wages to the G.PMs who were deployed to work for Stevedoring as a Compact gang.

14. Since the workers under the reference admittedly refused to work as Senior workers for the period in question i.e. 01-8-1998 to 20-8-1998 their refusal cannot be said to be justifiable. No doubt, they were ready to perform the duties of G.PMs but they were not deployed as such but they were asked to work for stevedoring to which the workers admittedly refused. Hence the management was right in deducting the wages. It may also be mentioned that some of the workers who opted for booking work were actually paid the wages. The ruling relied upon by the Union reported in AIR 1991 Supreme Court 2010 Union of India vs. K.V. Janakiraman does not help them on the facts and circumstances of the present case where the Supreme Court observed in the aforesaid ruling that normal rule of No work no pay is not applicable to the cases where the employee although willing to work was kept away from work by the Authority for no fault of his. Here, the workers refused to work for Stevedoring for which they had no right and in fact they were duly performing such duties from before. All of a sudden they resorted to no work. It was their fault and hence they were rightly not paid the wages for the period in question.

15: In view of what has been discussed above, conclude that the action of the management of MBPT in deduction 20 days wages from 01-8-1998 to 20-8-1998 of the G.PMs and not paying differential wages w.e.f. 1st March 1994 for having deployed in place of Senior workers is legal and justified. Hence the workmen are not entitled to any relief by this tribunal.

16. The reference is accordingly answered.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 2005

का. आ. 4769.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ ट्रावनकोर के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, कोझीकोड़े, केरल स्टेट के पंचाट [संदर्भ संख्या आई डी (सी)-1/04] को प्रकाशित करती है, जो केन्द्रीय सरकार को 30 -11-2005 को प्राप्त हुआ था।

[सं. एल-12012/209/2003-आई आर(बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 1st December 2005

S.O. 4769.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award [I.D. (C) No. 1/04] of the Labour Court, Kozhikode, Kerala State now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Travancore and their workman, which was received by the Central Government on 30-11-2005.

[No. L- 12012/209/2003-IR(B.-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE LABOUR COURT, KOZHIKODE, KERALA STATE

Dated this the 18th Day of November, 2005.

PRESENT:

SHRI K. BALASUBRAMANIAN, B.Com., LL.B.,
Presiding Officer.

I.D. (C) No. 1/04

BETWEEN:

1. The Chairman,
State Bank of Travancore,
Head Office,
Poojappura,
Trevandrum- 695012.
2. The Assistant General Manager,
Region-III, State Bank of Travancore,
Zonal Office, P.B. No. 25,
Kozhikode-673004.Management

AND

A. Balakrishnan,
Sangeetha,
Ambalapady,
Thulliserry Road,
Wandoor P.O.,
Malappuram-679328.Workman

Representations:—

Sri K.P. Damodaran Nambiar, Advocate, Calicut
...For Management.

Sri P. Muhammed Haneef, Advocate,
CalicutFor Workman.

AWARD

This reference was made by the Government of India, Ministry of Labour u/s 10(1) (d) and Sub Section (2A) of the Industrial Disputes Act to adjudicate the justifiability and correctness of the action of the management in dismissing the worker by name, Sri Balakrishnan from service and to pass further reliefs.

2. The worker by name Sri A. Balakrishnan while employed as a clerk/cashier in the Manjeri branch of the management Bank was dismissed from service on the charge of unauthorised withdrawal and mis-appropriation of funds from the customer's accounts through fictitious and fraudulent means and destroying some documents to cover up the fraud committed. Punishment was imposed after conducting a domestic enquiry through a senior officer of the Bank who held the worker guilty of all the charges. Ultimately the industrial dispute raised by the worker was referred to this Court and accordingly this I.D. was registered.

3. On appearance the worker challenged the very impartiality of the Enquiry Officer and the validity and propriety of the enquiry on various grounds. On the other hand, the management filed a statement supporting the correctness of the procedure of enquiry and conclusions entered by the Enquiry Officer. The validity and fairness of the enquiry was considered as a preliminary point. After enquiry the enquiry was found to have been fairly and properly held in accordance with law and majority of charges stands proved by legal and factual evidence. After upholding the enquiry both parties were heard on the proportionality of punishment.

4. The only point for consideration is:—

Whether or not the impugned punishment was just and proper?

5. It was contended by the worker in his statement that the capital punishment of dismissal from service is illegal, improper unwarranted and unjustifiable. It was further stated that the worker being a physical handicapped person having a clean service record and his whole family are dependent on him. On the other hand, management contends that the punishment awarded commensurates with the gravity of mis-conduct proved against the workman and in terms of the bi-partite settlement and if such dishonest and disloyal workers are treated with leniency, it will have a demoralising effect on the employees working honestly. No doubt, physical disability of an errant worker cannot be a licence for the commission of any malpractice or fraud. But in this case it could be seen from evidence that it was impossible to commit the alleged fraud without the active or passive connivance or knowledge of co-workers. I have also held

that the management has not succeeded in proving the charge of destruction of evidence to conceal fraudulent acts. There is also no evidence to show that the Bank has suffered any monetary loss on account of the misdeeds committed by the worker as have been repaid. The worker has also long unblemished service of more than two decades. So the facts and circumstances do not warrant imposition of extreme penalty of removal from service which appears to be shockingly disproportionate to the misdemeanour committed. Interest of justice could be adequately met by reinstating the worker in service and forfeiting his entire backwages, and seniority by way of punishment.

6. In the result, an award is passed setting aside the action of the management Bank dismissing the worker from service. In lieu thereof management is directed to reinstate the worker in service by forfeiting the entire backwages and seniority by way of punishment within 30 days of pronouncement of award.

Dictated to the Confidential Assistant, transcribed by her, revised, corrected and passed by me on the 18th day of November, 2005.

K. BALASUBRAMANIAN, Presiding Officer

Appendix

Witnesses examined from the side of the Worker:—

WW1 Balakrishnan A.

Witnesses examined from the side of the Management:—

MW1 Sethumadhavan P.

Documents marked from the side of the Worker:—

NIL.

Documents marked from the side of the Management:—

Ext. M1 Register of Enquiry Proceedings and depositions.

Ext. M2 File of Charge sheet, Reply to charge sheet, Report of Enquiry Officer, Preliminary Order, Final Order and Order of the Appellate Authority.

Ext. M3 File containing marked documents of the Enquiry Officer. (Ext. P1 to P31)

नई दिल्ली, 1 दिसम्बर, 2005

का. आ. 4770.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या आई डी-168/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-11-2005 को प्राप्त हुआ था।

[सं. एस-41012/91/2001-आईआर(बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 1st December, 2005

S.O. 4770.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (ID. No.168/2001) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Railway and their workmen, which was received by the Central Government on 30-11-2005

[No. L-41012/91/2001-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW

PRESENT:

Shrikant Shukla, Presiding Officer

I.D. No. 168/2001

Ref. No. L-41012/91/2001-IR(B-1) dated: 15-11-2001

BETWEEN:

Shri Anil Janes
S/o. Shri Hundry Nikil
House No. 2, Gopal Nagar
Mathura - 281001.

AND

The Divisional Railway Manager (P)
Central Railway
Jhansi - 284001.

AWARD

The Government of India, Ministry of Labour *vide* their order No. L-41012/91/2001-IR(B-1) dated: 15-11-2001 has referred following dispute for adjudication to the Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Lucknow for adjudication.

“क्या मण्डल रेल प्रबंधक, मध्य रेलवे, झांसी द्वारा कर्मकार श्री अनिल जेम्स को दिनांक 28-7-89 से सेवा समाप्त किया जाना एवं पुनः सेवा में नहीं लिया जाना न्यायोन्नित है? यदि नहीं तो सम्बंधित कर्मकार किस अनुतोष का हकदार है?”

The worker did file statement of claim that he was appointed as casual labour by the opposite party on 26-6-85 and continued to work till 14-7-85. He was again appointed as casual waterman on 1-4-86 and continued as such till 27-7-86. He was also engaged on 6-4-87 and continued as such till 27-7-87. Thereafter, he was again appointed as causal water man on 15-4-89 and continued as such till 27-7-89. It is alleged that the termination of appointment of the worker from 28-7-89 by the opposite party is illegal. It is further alleged that the worker has neither been appointed as casual waterman after 27-7-89

nor has been appointed as MRCL although he has been successful in the medical examination and is as such eligible for being appointed as MRCL. It is alleged that action of the opposite party in not granting the MRCL status to the worker and not appointing him as such is arbitrary, illegal, unjust and unfair and discriminatory as other workers have been allowed to work and given appointment in subsequent years. Worker has therefore prayed that the court be pleased to declare that the termination of the worker from 28-7-89 is illegal and worker be declare to be in continuous employment of the opposite party. Accordingly, the worker has prayed for all consequential benefits.

The opposite party has filed written statement and has submitted that requirement of casual water workman varied from year to year and on every station before the beginning of the season list of casual water man was pasted and the workmen who had worked as casual waterman in the preceding year work to contact the concerned station master/manager for re-engagement as casual water man. The concerned workman has never approached the concerned station master/manager. It is also mentioned that the workman who were senior on call were given engagement as casual waterman as every year because of implantation of water coolers and other drinking water facilities at various stations the requirement of casual water workman gradually reduced therefore the concerned workman was not given re-engagement in the year 1990 onwards. The engagement of the casual waterman was strictly for a limited period beginning April and ending on the onset of monsoon. In the engagement letter it is a condition precedent that the services of the casual watermen will be for a specific period and will automatically come to an end on the specific date mentioned in the engagement letter or on the onset of monsoon whichever is earlier. In the circumstances, the opposite party has neither acted arbitrarily illegal, unjust and unfair nor has done any discrimination with the concerned workmen for not granting him the MRCL status, as he was not found eligible for grant of MRCL status. The worker filed rejoinder.

On 26-10-2005 the worker requested time to get the matter settled in Lok Adalat scheduled to be held today i.e. 23-11-2005. The worker was allowed to compromise the case in Lok Adalat scheduled today and at the same time it was ordered that in default the court shall proceed to decide the case according to law. Today is date fixed for compromise in Lok Adalat, alternatively for the disposal of the case. The worker has not turned up nor his representative has turned up. However, one Ajay Kumar, Advocate states that he is junior to Sh. Devesh Agnihotri and moved application C-41. He has stated that worker has been offered service in Railway department therefore, worker does not wish to adjudicate the case. Application C-41 moved by Sh. Ajay Kumar is not maintainable in as much as he has not been authorised by the worker to

appear for him. Thereafter, Sh. S.N. Mishra, Law Asstt. filed application A-40 along with photo stat copy of appointment letter in respect of Anil James which is paper No. 42. By perusal of letter A-42 it is clear that the worker, Sh. Anil James S/o Hundry Michel has been appointed as regular worker (Kanisht Khalasi) in scale of Rs. 2550—3200 (RSRP). The worker has also sent the application to the effect that he has been appointed in the regular scale as such he has resumed his duties as regular worker of railways. He has also stated that now there exists no dispute between parties and the dispute be closed.

In the circumstances mentioned above No Claim Award is passed in view of application worker, A-40 and appointment letter, A-42. Award passed accordingly. Paper No. A-40 and A-42 should be the part of Award.

Lucknow
23-11-2005

SHRIKANT SHUKLA, Presiding Officer

उत्तर प्रदेश रेल
भण्डार विभाग
भण्डार डिपो, झांसी
वा.आ. सं. 81, वर्ष 2005

(वर्ग घ)

निम्नलिखित अध्यर्थियों को मण्डल रेल प्रबन्धक/कार्मिक झांसी के पत्र सं. झांसी/पी161के.ले./भर्ती दि. 19-04-2005 एवं 31-05-2005 के अनुसार स्क्रीनिंग में उपयुक्त पाया तथा पत्र सं. झांसी/पी/161/के.ले./वर्ग घ/भर्ती दि. 10-06-2005 के अनुसार ज्ञातव्य कराया कि महाप्रबन्धक/ड.म.रे/इलाहाबाद ने पत्र संख्या 797/ई/ड.म.रे/के.ले./ग्रुप डी/03 दि. 19-11-03 द्वारा भूतपूर्व कैजुअल लेबर/ग्रीष्म कालीन पानी वालों को नियमित करने हेतु स्क्रीनिंग कमेटी अनुशंसा को अनुमोदन प्रदान किया है।

इन्हें भण्डार यूनिट झांसी में कनि. खलासी वे.मा. रु. 2550—3200 (RSRP) में उनके समक्ष दर्शये डिपों में पदस्थ किया जाता है।

क्र.	अध्यर्थी एवं सं पिता का नाम	जाति तिथि	चिकित्सा प्रमाण पत्र सं एवं दि.	चिकित्सा उत्तीर्ण ब्रेगी	सदस्य एवं पदस्थ डिपो/ कार्यालय	
1	2	3	4	5	6	7
1.	श्री रामस्वरूप	SC 21-03-60	327105 पुत्र श्री गण्डू	AYE- 21-10-05	DY CMM/ Two JHS	
2.	श्री कुमारीलाल	SC 01-07-62	327103 पुत्र श्री हरचरण	AYE- 21-10-05	DY CMM/ Two JHS	
3.	श्री जगदीश प्रसाद पुत्र श्री विपत सिंह	SC 01-07-62	327107 21-10-05	AYE- Two	DY CMM/ JHS	
4.	श्री छोटे लाल पुत्र श्री मोहन	OBC 20-02-63	327106 21-10-05	AYE- Two	AMM/ RSK/ STL1	

1	2	3	4	5	6	7
5.	श्री भवानी दीन	OBC 05-10-64	327102 पुत्र श्री राम टहलू	AYE- 21-10-05	AMM/ Two ETD/CNB	
6.	श्री अमिल जेस्स	UR 13-11-66	327099 पुत्र श्री हैन्डी	Bee- 24-10-05	DY CMM/ Two JHS	
7.	श्री राजकुमार	SC 05-11-67	327104 पुत्र श्री रमेश	AYE- 21-10-05	DY CMM/ Two JHS	
8.	श्री राम प्रकाश	SC 01-12-61	327110 पुत्र श्री माता दीन	Bee- 27-10-05	DY CMM/ One JHS	

नोट:—

01. कर्मचारियों की नियुक्ति पूर्णतया अस्थायी है एवं 14 दिन के नोटिस देकर अथवा 14 दिन का वेतन देकर सेवा समाप्त की जा सकती है।

02. कर्मचारी को भण्डार यूनिट झांसी में कहीं भी स्थानान्तरित किया जा सकता है।

03. कर्मचारी की वरीयता भण्डार यूनिट में पद ग्रहण करने की तिथि से मानी जायेगी।

04. क्रम सं. 01, 02, 03, 06, 07 एवं 08 को रद्दी अनु. में पदस्थ किया जाता है।

उ. म. रेल

कार्यालय
उप मु. सा. प्र./झांसी
मंभो झां/ई/127

दि. 28-10-2005

प्रतिलिपि

01. मण्डल रेल प्रबन्धक कार्मिक/झांसी—सूचनार्थ एवं व. सं. झांसी/पी/151/वर्ग ध/के.ले./भर्ती दि. 19-04-05 एवं 31-05-05

02. मुख्य कार्मिक अधिकारी/भण्डार/इला.

03. भण्डार नियंत्रक/ड. म.रे./इला.

04. मण्डल सामग्री प्रबन्धक झांसी/आगरा छा./इलाहाबाद

05. सहा.सा.प्र. ई. एल. एस/डी/आर. एस. के./ई. टी. डी. झांसी, सिथौली, कानपुर

06. कार. विच प्रबन्धक/सहायक विच प्रबन्धक झांसी, सिथौली

07. डी. एम. एस./डीजल/आगरा छा. ग्वालियर रददी/पूल

अनुभाग झांसी

08. सूचना पट्ट

09. सचिव एन. सी. आर. एम. यू (EMS-II)/एन. सी. आर. ई. एस./एस. सी. एस. टी. ओ. बी. सी. एशोसियेशन भण्डार शाखा झांसी

10. कार्यालय अधीक्षक समयपाल झांसी
 11. सम्बन्धित कर्मचारी
 12. फाइल सं. झा/स्था/159 चतुर्थ श्रेणी/117. डी

सहा. सा. प्र./पी. डब्लू. डी/झांसी

सेवा में,

पीठासीन अधिकारी

सी जी आई टी एवं लेबर कोर्ट

लखनऊ

महोदय,

निवेदन है कि मेरा प्रकरण आपके समक्ष नौकरी पर पुनः लिया जाने हेतु विचाराधीन है। झांसी मंडल पर मंडल स्तर पर जो केजुअल लेबर सेवा से बाहर थे एवं जिनके नाम लाइव रजिस्टर पर थे उनको नौकरी पर लिये जाने के लिये प्रशासन ने निर्धारित शर्तों पर स्क्रीनिंग की थी। प्रार्थी ने भी रेगुलर किये जाने/नौकरी में पुनः लिये जाने के लिये आवेदन किया था मुझे स्क्रीनिंग कमेटी ने योग्य पाया।

मुझे उप मुख्य सामग्री प्रबन्धक झांसी के कार्यालय आदेश संख्या 81, वर्ष 2005 में संख्या झांसी ई/127 दिनांक 28-10-2005 के द्वारा खलासी वेतनमान रु. 2550—3200 (आर एस आर पी) में नियुक्ति दी जा चुकी है तथा मैंने दिनांक 29-10-05 से पदग्रहण कर लिया है तथा मैं नियमित रूप से सेवा कर रहा हूँ।

प्रार्थना

अतः श्रीमान जी से प्रार्थना है कि आपके समक्ष विचाराधीन विवाद को समाप्त करने की कृपा करें। मेरा प्रशासन के बीच अब कोई भी किसी भी प्रकार का विवाद नहीं रहा है।

न्यायहित में कृपया लम्बित वाद को समाप्त करने की कृपा करें। यह मैं बिना किसी दबाव के स्वेच्छा से लिख कर दे रहा हूँ।

दिनांक 18-11-05

स्थान:—झांसी

प्रार्थी

अनिल जेम्स पुत्र,

श्री हेन्ड्री माईकल

उप-मुख्य सामग्री प्रबन्धक झांसी

नई दिल्ली, 1 दिसम्बर, 2005

का.आ. 4771 (अ).— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार साउथ वेस्टर्न रेलवे के प्रबन्धधर्ता के संबंद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/प्रम न्यायलम, बंगलौर के पंचाट (संदर्भ संख्या सी आर-53/04) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-11-2005 को प्राप्त हुआ था।

[सं. एल- 41012/8/2004-आई. आर. (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 1st December, 2005

S.O. 4771.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (C. R. No. 53/04) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of South Western Railway and their workmen, which was received by the Central Government on 30-11-2005

[No. L- 41012/8/2004-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT "SHRAM SADAN",

III Main, III Cross, II Phase, Tumkur Road,
Yeshwanthpur, Bangalore-560022.

Dated: 14th November, 2005

PRESENT:

Shri A.R. Siddiqui, Presiding Officer

C.R.No. 53/04

I PARTY

Shri M. C. Rajendran, Tailor, Uniform Cell Senior Divisional Personnel Officer's Office, Divisional Office. Personnel Branch, South Western Railways, Hubli	The Divisional Railway Manager, South Western Railway, Divisional Office, Personnel Branch, Hubli
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II PARTY

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-41012/8/2004 D-IRCB-I) dated 30th September, 2004 for adjudication on the following schedule :

SCHEDULE

“Whether the action of the management of South Western Railways in denying promotion to Shri M. C. Rajendran, to HSK II Grade is justified? If not to what relief the workman is entitled to?”

2. The case of the first party workman as made out in the Claim Statement, in brief, is that he joined the services of the management as Tailor w. e. f. 14-6-1978 and was granted temporary status in Unskilled Grade in the grade of Rs. 195-232 erroneously instead of pay scale in the grade of Rs. 260-400. He was working as Tailor in Uniform Cell from the date he joined the services in which Cell there were 3 posts of Tailors in Grade HSK-I, HSK-II and Skilled HSK-1 which was vacant on account of death of

Shri N. Nagaraj on 30-6-1999. The promotion of the other two skilled posts should have been carried out, immediately, so as to fill up the cost of HSK-1 which was falling vacant and there was no move for promotion from HSK-1 and Skilled HSK-II and post of HSK-1 was kept vacant and so also of HSK-2; that vide official memorandum dated 2nd February, 2000 creation of additional posts of Tailors for Uniform Cell of Hubli Division is sanctioned vide Annexure-A1 and thereafter a note dated 14-7-2002 has been submitted as per Annexure-A2 which pertains to non implementation of promotions in cadre of Tailors; that first party gave a representation to management to promote him and remove the gross injustice done to him and since it was not done, he had to raise the dispute on hand; that the management had addressed a letter dated 8th October, 2002 stating that in Hubli Division, 3 posts of Tailors are available in the grade of Rs. 3050-4590 and proposals were sent to accounts treating the Tailors as Artisans and fixing the percentage as per the Railway Board letter dated 27-1-1993 making it clear that the Tailors can be treated as Artisans; that apart the management board has created 3 additional posts of Tailors in the grade of above said grade in Uniform Cell, Hubli Division; that on 18-7-84, the first party has passed the trade test; that in pursuance of the directions given by the CAT Skilled grade has been granted to the first party from the date of his temporary status and he had been fully recommended for promotion to the next higher cadre as per the letter dated 14-7-2002. Therefore, the first party is fully qualified and eligible to be promoted to the next higher grade and the management with mala fide intention has denied him the promotion causing him undue misery and hardship. Therefore, he is entitled to be promoted to the next higher grade and highly skilled Grade-II and Highly Skilled Grade-I from the date of which he was qualified to be promoted and to get his pay fixed in the promotions cadre alongwith arrears of the salary.

3. The management by its Counter Statement resisting the claim of the first party as follows:—

That the first party workman joined as EIR Tailor with second Party management with effect from 14-06-1978. As a matter of fact when the first party workman joined as ELR Tailor, only one sanctioned regular post of tailor was in existence, in Uniform Cell of the division office. In addition to that there were four tailors ELR. Since no vacancy was available to regularize the services of ELR. Their services were not regularized and they continued to work as ELR tailors.

That the ELR tailors had failed the application before the Central Administrative Tribunal, Hyderabad, for regularization of service in Scale of Rs. 260-400. The tribunal vide order dated 14-11-1995 was pleased to direct the

second party to regularize the services of ELR tailors with effect from 14-10-1978 on pay scale of Rs. 260—400, notionally and to pay the arrears of one year from the date prior to the filling QA No. 319/94. Further direction was issued to create four posts of tailors in scale of Rs. 260—400. Accordingly the pay of first party was fixed on proforma basis from 14-10-1978 with arrears from 7-3-1993. Thereafter the first party workman screened and his services were regularized temporarily as skilled Artisan (tailor) and the first party was transferred to mechanical department till the creation of post in Uniform Cell, Divisional Office, South Central Railway, New South Western Railway, vide memorandum No. H/P535/I/1/Tailors/Vol. 1 of 30-7-1997.

That the Railway Board vide memorandum No. 14/1999-2000(UBL2) dated 2-2-2000 communicated the sanction of post of two tailors in scale of Rs. 260—400 for South Central Railway now South Western Railway of Hubli Division. Accordingly the first party was retransferred from mechanical department to Uniform Cell of divisional office, as tailor. In view of the creating of additional posts in Rs. 260—400, scale revised to 3050—4590. The total sanction post of tailor thus were uncreased to three, in the cadre of tailors. Further a proposal was sent to Associated Accounts Department during 19-6-2001 to restructure the post of tailor as under:—

Tailor Artisan	3050-4590	30%	1 Post
Tailor Artisan	4000-6000	30%	1 Post
Tailor Artisan	4000-6000	30%	1 Post
Tailor Artisan	4500-7000	5%	0 Post

The Associated accounts department having concurred with the aforesaid proposal suggested to obtain the sanction form the Senior DPO as per the Schedule of powers since he was the competent authority to accord administrative approval for revised percentage of distribution of posts. Further, a clarification was sought by the Sr. DPO/Hubli from the Associated Accounts that in view of the annual review are suspended till further instruction as per serial circular No. 9/93. As such, the two post concurred by the Accounts earlier have any impact by this circular No. 9/93, since the two posts were created during 2000. Hence the accounts department have withdrawn their earlier redistribution for the 3 posts as stated above vide this letter dated 5-2-2002. The said circular and letter in respect of redistribution of tailors post vide No. APE: UBL/Uniform dated 28-7-2001 are herewith produced and marked as document No. 1 and 2.

That in the meanwhile the workload of tailors in the Uniform Cell of divisional office had drastically reduced in view of handing over of stitching of uniforms to handicrafts centre and contractors. The existing tailors in

the second party management found to be more. Therefore, as a part of right sizing of the administration due to manpower planning, the one post of Tailor Artisan was surrendered vide memorandum No. UBL/13-2002-2003 dated 28-3-2003. The copy is marked as document No. 3. Accordingly the second party management has accorded concurrence to the revised distribution of two posts as hereunder subject to obtaining a clarification from CPO/ SWR as to whether the tailor category falls under Artisan. The said letter is herewith produced and marked as document No. 4.

Tailor Artisan	3050-4590	30%	One Post	1
Tailor Artisan	4000-6000	30%	One Post	1

The CPO had clarified in pursuance to the letter of the Second Party that the post of tailor was in fact Artisan. Accordingly, the first party seniority was fixed, since only two posts were available in the said category and the first party being second in seniority in Artisan Gr. II the first party was not promoted to the said post. Therefore, the first party cannot have any grievance against the Second Party so far as his promotion is concerned as there was no vacancy available to promote the first party to the said grade. And further the first party had not disputed and challenged the withdrawal of concurrence vide letter dated 5-2-2002 No. A/FE/UBL/Uniform, if at all the first party had any grievance as to the promotion in respect of withdrawal of concurrence the first party ought to have challenged the same before appropriate authority and court as this Hon'ble tribunal has no jurisdiction to go into legality of the letter dated 05-02-2002.

That the Second party had complied with all the directions issued by the Hon'ble Central Administrative Tribunal in OA No. 319/93. Accordingly the services of the first party were regularized in the Cadre as Tailor in Scale of Rs. 3050-4590. Therefore, the averments made in Para 5 and 6 of Claim Petition to the effect that the first party was denied promotion inspite of representation made by him to the Second party are denied as being false and baseless and the first party is put to strict proof of the same. However, the first party workman was extended the benefit of financial upgradation with effect from 4/5-8-2004 vide memorandum No. WP. 535/1/I/Tailor/Vol. 1.

4. During the course of trial, the management examined one witness by filing the affidavit evidence, almost, reiterating the various contentions taken by it in its Counter Statement. On 26-7-05 when the matter came to be posted, MW1 was further examined in chief and documents at Ex. M1 to M4 were marked. As the first party and his counsel remained absent on the abovesaid date, case was adjourned of or cross examination of MW1 giving the next date of hearing as 23-8-2005. On which date MW1 was present but there was no representation on behalf of the first party. Therefore, MW1 was discharged and case was posted for evidence of first party.

On 16-9-2005 once again the first party and his counsel have remained absent and there was no representation on their behalf. It was taken that first party has no evidence to lead. On 6-10-2005 I have heard the learned counsel for the management as the learned counsel for the management as the first party and the counsel representing him once again remained absent before the court.

5. Learned counsel for the management in his arguments submitted that keeping in view the statement of MW1 in his examination chief made by way of affidavit evidence and the documents at Ex. M1 to M4 which have gone unchallenged and uncontested on the part of the first party workman, his claim for promotion must fail, particularly, when there is no oral or documentary evidence produced by the first party to substantiate the various contentions taken by him claiming the right of promotion in his statement of claim. I find substance in his arguments. The case of the management as made out in the Counter Statement brought on record in details above, would make it clear that promotion was not given to the first party as there was no vacancy available to promote him to the higher grade as claim made by him. It is made clear by the management that as per the clarification given by the CPO in response to the management letter post of the Tailor was in fact treated as a post of Artisan. It is also made clear that accordingly the first party's seniority was fixed and since only two posts were available in the said category and the first party being second in the Seniority in Artisan Grade-II, he was not promoted to the said post. Above statement made in the Counter Statement by the Second Party has been repeated in the affidavit of the management witness supported by the abovesaid documents at Ex. M1 to M4 and as noted above, has gone undenied and uncontested, there being no cross examination to MW1 and genuineness of the aforesaid documents again remained unchallenged. That apart, it was also incumbent on the part of the first party workman who have established his claim and right of promotion by leading his own oral and documentary evidence. As could be read from the order sheet maintained by this tribunal, the first party has remained very much indifferent to the proceedings pending before this tribunal and has remained absent before this tribunal till the matter was taken closed for evidence and arguments well heard, advanced for the management. Therefore, what appears from the conduct of the first party is that he is no more interested in the prosecution of the claim put forth by him by way of Claim Statement. In the result, it must be held that he fails to substantiate his claim of right of promotion as asked for and hence the reference deserves to be rejected. Hence the following award:

AWARD

The reference is rejected. No order to cost.

(Dictated to PA transcribed by her corrected and signed by me on 14th November 2005).

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 2005

का. आ. 4772.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की शारा 17 के अनुसरण में, केन्द्रीय सरकार एवं इंडिया के प्रबंधनत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण त्रिम न्यायालय मुम्बई -I के पंचाट (संदर्भ संख्या 18/1993) को प्रकाशित करते हैं, जो केन्द्रीय सरकार को 30-11-2005 को प्राप्त हुआ था।

[सं. एल-11012/7/1992-आई आर(विवाद)/आई आर(सी-1)]
एस. एस. गुप्ता, अवर सचिव

New Delhi, the 1st December, 2005

S.O. 4742.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18/1993) of the Central Government Industrial Tribunal/Labour Court, Mumbai I now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Air India and their workman, which was received by the Central Government on 30-11-2005.

[No. L-11012/7/1992-IR(Misc)/-IR(C-1)]
S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT TRIBUNAL NO. 1, MUMBAI PRESENT

Shri Justice C.V. Govardhan
Presiding Officer

REFERENCE NO. CGIT-18 OF 1993.

PARTIES : Employers in relation to the management of Air-India

And

Their Workman.

APPEARANCES :

For the Management : Shri. Swamy, Advocate.

For the Workman : Shri. R.S. Pai, Advocate.

State : Maharashtra

Mumbai, dated the 9th day of March, 1999.

AWARD - I

1. The Central Government has referred on 23-2-1993 the following dispute between the management of Air-India and their workmen for adjudication by this Tribunal.

“Whether the action of the management of Air-India in terminating the services of Shri A.D. Abreo, Loader justified? If not, to what relief the workmen is entitled?”

2. The averments in the claim statement of the workman is briefly as follows:

The workman is a confirmed loader in the services of the employer w.e.f. 01-7-79. He was working in the Ground Service department. The Dy. Director, Ground

Services of the employer Corporation by its order dated 4-7-1986 purported to have been issued under Regulation 43(A) suspended the workman from service on a suspicion in respect of theft of one saree from a passenger baggage. The workman was issued with a charge sheet dated 15-7-86 alleging that on 30-6-1986 when the workman was on duty he was alleged to have removed a saree from the suit case belonging to a passenger of the employer. Particulars of the name of the passenger or any complaint has not been given to the worker. The workman sent reply on 21-7-86 denying charges levelled against him. He has pointed out that he had been victimised at the instance of one Mr. Nail Singh, Head Security Guard of the employer. He has pointed out that he has been falsely implicated in the charges on account of personal bias of Mr. Nail Singh. The Deputy Director, rejected the explanation of the workman. The said authority appointed two Officers as members of the enquiry committee to hold an enquiry against the workman in respect of the charges levelled against him. The Convenor of the enquiry committee Mr. Gaikwak intimated the first date of enquiry fixed by him to the worker. The enquiry commenced on 19-12-86 and concluded in the month of August 1987. The enquiry is vitiated on account of violation of principles of natural justice, bias and malafides on the part of the enquiry committee. There was no Presenting Officer to conduct the case on behalf of the employer, no witnesses were called in for production of documents referred to at Exhibit M-1 to M-10 before the enquiry committee. The enquiry committee examined witnesses on behalf of the employer Corporation and thus acted simultaneously as a Prosecutor and a Judge. The enquiry committee failed to examine material witness Mr. D. C. Dholi and it should the bias attitude of the committee. The committee have a finding that the charges levelled against the workman have been proved. The finding is biased. The Dy. Director who has acted as disciplinary authority did not forward a copy of the report and the findings of the enquiry committee to the workman. No opportunity was given to the workman to offer his comments. The Authority purported to exercise powers under the Regulation, dismissed the workman from service by its order dated 12-11-87. The employer filed an application for approval under Section 33(ii)(b) of the I.D. Act. The said application was ordered as the Tribunal had only a limited jurisdiction under Section 33-2(b). The workman addressed a letter to the Director, Ground Handling Department of the Employer demanding reinstatement with full back wages but it was not completed. The workman has therefore, raised the dispute. The tribunal may be pleased to quash the dismissal order and reinstate the workman with back wages and other benefits.

3. The management in their written statement contends as follows:

The dispute has been raised after a lapse of four years from the date of termination. The reference, therefore, suffers from delay and laches. The reference is therefore, to be dismissed on this ground alone. The workman committed theft of property entrusted to the Management on 29-6-86, when he was allocated duty of

off-loading the baggages from the cargo hold of Air India Flight No. A1 812 on that date. Around 3.20 a.m. on 30-6-86 it was observed by the Security Personnel on duty near the Aircraft that the workman was removing something from suit case of the passenger with duplicate keys. On personal search carried out on the person of the workman, it was found that he was in possession of a red colour Nylon Saree hidden below his pant. The workman was also found in possession of big bunch of keys of various types. When the Security interrogated the workman he admitted having removed saree and concealed it under his pant. On the basis of the above incident he was suspended and charge sheeted by the competent authority. The allegation that the charge sheet is false is not true. It is irrelevant to find out as to whether name of the passenger was given or not. The allegation that the enquiry proceedings are vitiated on account of principle of natural justice, bias and malafides on the part of the enquiry committee is denied. The domestic enquiry was conducted in accordance with requirement set out in the service regulations that are applicable to the workman. The workman was allowed to be represented by his defence counsel one Mr. Fernandes. The workman was given opportunity to defend himself and examine his own witness. The enquiry does not suffer from any infirmity. The allegation that it was conducted in violation of principle of natural justice is not true. From the enquiry proceeding dt. 4th, August, 1987 a reference was made from Mr. Dholi who was supposed to be a witness for the workman; but he did not attend. The workman failed to bring his witness. The enquiry committee has written a letter to Mr. Dholi asking him to appear before the enquiry committee; but he did not attend. The CGIT No.1 has approved the action taken by the management in terminating the service of the workman by its order dt. 3rd June, 1991. It has upheld the domestic enquiry conducted in the case of the workman. The allegation that the findings of the enquiry officer are perverse, bias and one sided is not true. Considering the age of the workman, the competent authority has decided to award a lesser punishment of removal from service as provided under regulation 43-A and the allegation that the punishment is not proportionate to the conduct of the misconduct is denied. The reference is therefore, liable to be dismissed.

4. The only point for consideration is whether the action of the management in terminating the service of the workman is justified and if not to what relief the workman is entitled?

The Point

The workman was a confirmed loader in the Ground service department of Air India. The management has suspended the workman by its order dt. 4-7-86 on an allegation that he has committed theft of a Saree of one of the passenger of the management and on that basis the charge has also been framed against the workman. The workman has denied the charge framed against him and therefore, the disciplinary authority has appointed an enquiry committee consisting of two officers to hold an enquiry against the workmen on the charges levelled against the workman. The enquiry committee after enquiry

had given a finding that the charge against the workman has been proved. The disciplinary authority accepted the said finding and awarded punishment of termination of service contending that considering the age of the workman, a lenient view is taken on him. Subsequently the management has also filed an application for approval under Section 33(ii)(b) and this tribunal has approved the order passed by the management. Therefore, this present dispute has been raised by the workman seeking reinstatement with back wages and other benefits. The management has opposed the same by contending that the dispute has been raised belatedly by the workman that this tribunal has given a finding in the approval application that the charge against the workman has been proved and therefore, the reference is to be dismissed.

5. Before proceeding to decide whether the enquiry conducted against the workman was legal and proper and whether the finding of the enquiry officer is proper, I think it is necessary to decide the two preliminary objections raised by the management as mentioned supra. The first and foremost objection raised by the management it is that the dispute has been raised by the workman belatedly after a lapse of 4 years from the date of termination. It is to be noted that after the order of termination issued by the management they have filed an approval application before this tribunal and the same was disposed by the tribunal only on 03-6-91. The workman has addressed a letter to the Director, Ground Handling Department demanding reinstatement by a letter dt. 12-6-91 and at the same time he has also forwarded a copy to the Regional Labour Commissioner raising this dispute. Therefore, the contention of the management that 4 years after the order of termination the workman has raised this dispute and therefore it suffers from delay and laches cannot be appreciated. The pendency of the approval application before this tribunal for nearly $3\frac{1}{2}$ years is to be taken note. In the view I am of opinion that the first preliminary objection raised by the management that the reference suffers delay and laches on the part of the workman cannot be sustained. This fact also answers the other preliminary objection raised by the management that this tribunal has upheld the fairness or otherwise of the domestic enquiry and also the finding of the enquiry officer has been upheld by the tribunal. It is a recognised principle of law that finding in an approval application filed under section 33-2(b) cannot be considered as res judicata in a reference under the I.D. Act. I wish to refer to the decision reported in 1991 I CLR Page 886 between Amarsingh *Vs.* Judge, Labour Court, Bharatpur. In the above decision the Rajasthan High Court has held as follows:

“Findings of Labour Court granting approval under Section 33-2(b) of the Act are only *prima facie* conclusion. Nothing is decided by Labour Court except granting approval and removing bar of termination. Approval granted is not res judicata to real issue of adjudication of real and real conflict between the parties. Orders of termination is still open to challenge in any adjudication in appropriate proceedings before Labour Court when matter is referred to the Labour Court.”

Therefore, the preliminary objections raised by the

management with regard to the maintainability of this dispute on the ground of delay and latches on the part of the workman and on the ground that approval has been granted by this tribunal in an application filed under Section 33(ii) (b) of the I.D. Act are without merits.

The learned Counsel appearing for the workman challenges the finding of the Enquiry Officer as a perverse one, by contending that the enquiry committee has taken the role of the Presenting Officer and failed to examine a loader by name, Mr. Dholi who was also present on duty at the time and place where the alleged theft is said to have taken place. According to the learned advocate the enquiry committee has failed to appreciate the evidence of the management witness Mr. Katkar and failed to appreciate the claim of the worker that the keys were planted and finally the finding of the Enquiry Officer has not been furnished before the disciplinary authority has taken a decision with regard to the proof or otherwise of the charges against theft.

6. As regards the contention of the learned counsel that the enquiry committee has taken the role of Presenting Officer when the management has not appointed any Presenting Officer and the Committee itself has produced the documents and examined witnesses is concerned, I am of opinion that there is no merits in this contention in view of the decision reported in 1975 Supreme Court page 2125 between Moolchandani Electrical and Radio Industries Ltd. vs. the Workman in which it has been held that the Enquiry Officer in a domestic enquiry can put questions to the witnesses for clarification wherever necessary and if he allows the witnesses to be cross-examined thereof, the Enquiry proceedings cannot be impeached as unfair. In the decision reported in 1995 II LLJ between Pravin Rathilal Dhudra and Municipal Corporation of Greater Bombay, the Bombay High Court has held that the fact that a Presenting Officer was not appointed during the enquiry would not vitiate the Proceedings and the Enquiry Officer did not over step him to put any questions and merely asked for clarificatory questions of the witnesses. In view of the above two decisions the contention of the learned counsel appearing for the worker that the enquiry committee has taken the role of Presenting Officer and acted as a Prosecutor as well as judge and therefore, the enquiry is vitiated cannot be accepted. It cannot be stated that the method of conducting the enquiry is improper when the enquiry committee had put questions to the witness and recorded the same.

7. The next ground of attack by the learned counsel appearing for the worker is that the enquiry committee has not examined the witness by name Mr. Dholi to explain the incident and it is a failure to give proper opportunity to the worker to defend himself in the enquiry. The workman has been examined as WW-1 before this tribunal. He has stated during cross-examination that he did not produce Mr. Dholi as his witness but he asked the management to produce Mr. Dholi as their witness but they declined to do it. The worker cannot compel the employer to examine a particular person on their behalf. If he is interested in examining a particular person, it is for him to produce the

said person, but the worker has not chosen to examine Mr. Dholi. He has admitted in cross-examination that he did not request the enquiry committee to re-open the enquiry with a view to enable him to produce Mr. Dholi as a witness. Subsequently he has also stated that he had requested the management to re-open the enquiry and after he wrote the letter, the enquiry was re-opened and even after re-opening he did not examine Mr. Dholi. According to the worker it is correct that the enquiry committee sent letter to Mr. Dholi to come and depose before the enquiry committee when Mr. Dholi did not appear before the enquiry committee. The enquiry committee gave him one more day and wrote to Mr. Dholi to appear before it and gave a copy of the said letter to him to be handed over to Mr. Dholi and yet Mr. Dholi did not appear before the enquiry committee. This evidence of WW-1 during cross-examination before this tribunal would show that the management did not examine Mr. Dholi. He wanted to examine Mr. Dholi as one of his witnesses and the enquiry which was closed was actually re-opened and he was given opportunity to examine Mr. Dholi and even a letter requesting Mr. Dholi to attend the enquiry was written by the enquiry committee and handed over to the worker. In the above circumstances the contention of the worker that he was not given an opportunity to examine a witness of his choice and it amounts to denial of opportunity to defend himself properly is without merits.

8. The learned counsel appearing for the worker had argued that the evidence placed before the enquiry committee has not established that the worker has committed the misconduct of theft as alleged in the charge sheet and purely on suspension a charge of theft has been framed against the worker and witness were examined and the enquiry committee has also given a finding that the charge has been proved without considering the evidence correctly, and without considering the materials in favour of the worker and the conduct of the committee was very unfair, and it is because of the same, the finding has also been given a perverse manner. Since the learned counsel appearing for the worker has stated that the charge has been framed under suspicion and evidence of witness has not been properly considered, I am of opinion that it is necessary for us to analyse the evidence before the enquiry officer also. The learned counsel appearing for the management would argue that in a domestic enquiry the strict and sophisticated rules of evidence under the Evidence Act may not apply and all materials which are logically probative for a prudent mind are permissible and relies upon the decision reported in 1977 Supreme Court 1512 between State of Haryana and another Vs. Rattan Singh for the above proposition. Let us consider the evidence placed before the Enquiry Officer to find out whether the same satisfies the Rule of law laid down by the Supreme Court in the above decision.

9. It is the case of the management that the employee was caught red handed by the Head Security Guard Mr. Nainsingh on the night of 29th June, 1996. Nainsingh has been examined as the first witness for the management. He has stated that on the night of 29-6-96 he was keeping a watch on the loaders from G.S.D. working on the tarmac

near the flight A1 812. Offloading of all baggages was in process and the apprehended one loader of G.S.D. who was trying to open a suit case. He has also stated that when he approached there, he checked 4/5 suit cases being off loaded on the conveyor and found to be secured properly and that since he had a doubt, he climbed on the Aircraft hold and found the worker unloading. He would further state that since he had a doubt of Mr. Abreo he got down along with the loaders, went to the other side of the trolley and was observing the two loaders and that he saw Mr. Abreo alone inserting something inside the pant in the front side and pretending to push the trolley in order to avoid showing his front. It is also stated by this witness Nainsingh that when he was asking the employee to come to the Security Office he immediately removed the saree that was tucked inside and threw it on the ground and the worker has also stated that he did not take anything. According to Nainsingh when he told the worker to take the saree back he refused on the ground that since he was not carrying it in his possession, he will not take it from the ground. At a later stage of his evidence Mr. Nainsingh has stated that upon Moorthy's instruction he searched Mr. Abreo's pocket and found a bunch of keys and that Mr. Abreo started that those keys are not his house keys. Mr. Moorthy has been examined subsequently and he had stated in his evidence that Mr. Nainsingh informed him that the loader Mr. Abreo has hidden a red colour saree underneath his pant and also he was carrying a bunch of various types of foreign made keys in his possession and that he also noticed a red colour saree as well as a bunch of keys in his possession. The witness, Mr. Moorthy has stated during cross-examination that Mr. Nainsingh, Head Security Guard himself discreetly watched Mr. Abreo hiding something under his pants and the same was informed to him that some red colour article he was carrying under the pants and he also noticed the same thing and there is no question of asking Mr. Nainsingh to immediately conduct a personal search. According to this witness Mr. Moorthy, Mr. Abreo hurriedly hidden below his pants as a little part of it was visible if the shirt is slightly lifted. The third witness is Mr. S. L. Singh. According to this witness after making enquiry he brought Mr. Abreo in I. P. T. Security Office where one saree was recovered from his pant before two panchas and on personal search one key-bunch was also found in the pocket of Mr. Abreo. During cross-examination this witness has stated that he had noticed the front side of Mr. Abreo was bulging and also enquired him about the hidden item in his person and he disclosed that he was having one saree under his pant. To a specific question to this witness whether he has seen anything coming out from his upper portion on the pant, the witness has stated "No." At a later stage he has stated that he came to know Mr. Abreo having a saree under his pant at the time of the panchanama. This witness has categorically stated that it will be difficult to find out the particular baggage from which it might have been pilfered since Mr. Nain has not noticed any open or damaged piece of baggage. These 3 witnesses have given evidence which is not corroborating each other. Mr. Nain has stated that he has apprehended the employee while he was trying to

open a suit case. He has also stated that he checked four or five suit cases which were unloaded. They were found to be secured properly. The third witness has also stated that the suit cases are not pilfered. When the suit cases were intact and baggages were not found pilfered from where the saree has come is not explained. Mr. Nainsingh who claims that he apprehended the loader who was trying to open the suit case has also stated that all the suit cases were found to be secured properly. If it is so, how the saree have come into the Aircraft hold is now known. Mr. Nain has stated that he saw Mr. Abreo inserting something inside his pant in the front side and was pretending to push the saree in order to avoid showing his front. This insertion of something is only subsequent to the witness as well as Mr. Abreo and the other loader coming down from the Aircraft. During the cross-examination Mr. Nain has stated that the employee as well as the other loader and himself came down from the hold sitting on the conveyor alongwith the coffin and as soon as the coffin touched on, the other loader went away and he was keeping a close watch on Abreo only since he had doubt on Mr. Abreo. When this security guard keeps a close watch on the employee and comes down the conveyor alongwith him and another how the saree has escaped the attention of the Security Guard has not been explained at all. It is to be noted that the other loader who was with the employee Abreo went away as soon as the coffin touched down. The evidence of Mr. Nain does not explain how the saree has been brought down from the Aircraft hold to the ground without his noting it.

10. According to Mr. Nain when he asked the employee to come to the Security Office, Mr. Abreo immediately removed the saree that was tucked inside and threw it on the ground and refused to take it when he asked him to take it. This evidence of Mr. Nain is to the effect that the saree was on the ground after he got hold off Mr. Abreo. But the evidence of the next witness namely Moorthy and the third witness Mr. S. L. Singh did not support the case of Mr. Nain to the effect that the saree was lying on the floor. When the saree has been thrown way by the employee unless it is again tucked in, there is no chance of the witness Moorthy and Nain, seeing the front portion of the employee in a bulged condition. But there is no evidence by Mr. Nain that the employee took the saree from the ground and again tucked it inside his pant. When Mr. Moorthy stated that he saw the red colour saree coming out of the upper portion of the pant of the employee, Mr. Singh says he did not saw anything coming out of the upper portion of the pant of the employee. Mr. Nain singh has stated during cross-examination that he did not find the saree as such when he apprehended Mr. Abreo and that he suspected some items to be concealed; but when he caught Mr. Abreo collar he removed the saree hidden and throw it on the ground and then only he noticed that it is a saree. This evidence of Mr. Nain is actually contradictory to his earlier evidence that he saw Mr. Abreo inserting something inside his pant in the front side. The evidence of these three witnesses is thus not only contradictory but also contradicting with each other with regard to the commission of theft is concerned.

11. The fourth witness examined before the enquiry officer is Mr. Katkar. He has stated that he heard the arguments of the loader and the Security Guard, when he approached the conveyor belt and he found the security guard asking Mr. Abreo to pick up the saree which had fallen on the ground below the conveyor which Mr. Abreo was refusing to do. He has stated that he know Mr. Abreo for about three years past and he never heard such instance in the case of Mr. Abreo. It is the specific case of Mr. Nain that he was keeping a watch on Mr. Abreo. He was one of the suspected employees of the Corporation while Mr. Katkar, Supervisor under whom the employee works has certified that he has not heard any such instance earlier; but his evidence is to the effect that some saree was lying on the ground below the conveyor belt and when the Security Guard asked Mr. Abreo to take it he refused to do it and there was an argument regarding the same between them and it does not help the management to show that Mr. Abreo had committed theft.

12. Two witnesses were examined by the management with regard to the panchanama under which the saree and the keys were seized. One Mr. Gangurde has stated that he was requested to sign a panchanama informing him that Mr. S. L. Singh had recovered some saree and some towels from a sweeper and that items so recovered were covered under panchanama. He has also stated that he went to the Security Office when Mr. Singh was about to close a parcel at that time and that he was informed that the said parcel contains the saree and towels. Reliance cannot be placed on the evidence of this witness since it is not the case of the management that the stolen articles are a number of sarees and towels and it is not the case that they were recovered from a Sweeper. Mr. Ganguly has stated that he had signed a panchanama without reading it and the statement of the employee was recorded in his absence yet he had signed it. During Cross-examination he has stated that Mr. Singh informed him nobody is prepared to come forward to sign panchanama and since Mr. Singh is well known to him he signed the panchanama in good faith. When the evidence of this witness is to the effect that he had signed the panchanama and the statement of the employee at the request of Mr. Singh who is known to him, no reliance can be placed on his evidence with regard to the seizure. The next witness examined was Mr. Puri. In his evidence he has stated that he had signed the panchanama and he had not seen the item in the parcel in which he had signed and that he was only told that it contained a saree. At a later stage of cross-examination he had stated that he does not recollect whether the saree was shown to him at the time of drawing of panchanama. He has also admitted that it is not the proper way in which a panchanama has to be made and that it is feasible to change the contents of the parcel after obtaining the signature of the panchas. On a consideration of this evidence of Mr. Puri we cannot come to the conclusion that he was also a witness for the seizure even though sophisticated rules of Evidence Act may not apply in a domestic enquiry. Evidence which are self contradictory and contradictory with each other cannot be accepted, to hold that the employee has committed misconduct of theft

since such evidence was let in during the domestic enquiry. Even in a domestic enquiry, the evidence should be such that it is probable or possible to accept the same. Relying upon this evidence the Enquiry Officer has given a finding that the charge against the workman has been proved. I am of opinion that the argument of the learned counsel appealing for the workman that the enquiry committee has acted in an unfair manner in giving a finding that the charge has been proved when there is no evidence for theft by the workman can be accepted. The learned counsel appearing for the workman has also argued that an order of dismissal is illegal and improper on the ground that the disciplinary authority has not furnished the copy of the enquiry report to the employee before taking a decision. I am of opinion that this argument of the learned counsel appearing for the workman cannot be accepted in view of the decision of the Supreme Court reported in 1991 Supreme Court II LLJ 653 between Inspecting Assistant Commissioner, Bombay & Others and Sharat Narayan Parab in which the apex Court has held that an enquiry which was completed before ratio in Ramzan Khan's case (1991-I-LLJ-29) (SC) is not vitiated on account of not furnishing the enquiry report to the delinquent employee. In the present case the enquiry was conducted in March 1987 and the report was given in 1987. In Ramzan's case it was decided by the Supreme Court in 1991, i. e. long after the enquiry. Therefore, non-furnishing of the report of the Enquiry Officer is not a ground to hold that the enquiry itself is vitiated. The learned counsel appearing for the workman has also argued that whether the management sought an opportunity to let in evidence and fails to avail the said opportunity the Tribunal could be justified in passing an award in favour of the workman and relies upon the decision reported in 1999 (81) Supreme Court FLR page 188 between Neeta Kapilash and P. O. Labour Court and another. In the above decision relied by the learned counsel appearing for the workman, the Supreme Court has held that when the Labour Court has itself held that if the management does not lead any evidence by availing the opportunity to ask for fresh evidence it cannot raise any grouse at any subsequent stage that it should have been given that opportunity, as the Tribunal, in those circumstances, would be justified in passing an award in favour of the workman. In the present case, the management has asked for fresh evidence to be let in before the Tribunal; but it has not availed the opportunity to which it is entitled under Section 11-A of the Industrial Disputes Act. We have already seen that the enquiry was not fairly and properly held and the finding of the Enquiry Officer is perverse. In the above circumstances, when we apply the decision of the Supreme Court reported in 1999 (81) FLR page 188 we have to hold that the employee is entitled to the relief of reinstatement with back wages and other benefits. In that view I hold on the point that the action of the management of Air India Ltd. in terminating the services of Mr. Abreo, Loader is not justified and therefore he is entitled to the relief of reinstatement with back wages and other benefits.

13. In the result, an Award is passed holding that the action of the management of Air India in terminating

the services of Mr. Abreo, Loader is not justified and therefore he is entitled to the relief of reinstatement with back wages and other benefits.

C. V. GOVARDHAN, Presiding Officer

**ORDER PASSED IN REVIEW APPLICATION
DATED 9TH MARCH, 1999.**

1. When this Tribunal passed an award as above on 9th March, 1999 in the open court, the learned counsel for the management Mr. Swamy represented that the management has asked for an opportunity be given to them to prove the charge against the workman before this tribunal and subsequently has filed the review application also. In this review application the learned advocate for the management has stated that in page 9 of the written statement the management has prayed for leave of this tribunal to record evidence before this tribunal to substantiate the charges against the workman in the event of this tribunal coming to the conclusion the enquiry is vitiated. He has prayed for reviewing the award and grant an opportunity to the management to lead evidence to substantiate the charge levelled against the workman.

2. Notice has been ordered on 10th March, 1999 to hear the parties on 16th March, 1999. On 16th March the workman alone was present and his advocate was not present. Heard the learned advocate for the management.

3. In the award passed on 9th March, 1999 this tribunal has come to the conclusion that the enquiry committee has acted in an unfair manner in giving a finding that the charge has been proved, when there is no evidence for theft. After holding that the enquiry committee has committed an error that the charge has been proved this tribunal has referred the decision relied by the learned counsel appearing for the worker reported in (1999) 81 Supreme Court F.I.R page 188 between Neeta Kaplish and Presiding Officer, Labour Court and another and has held that the employee is entitled to relief of reinstatement with back wages and other benefits. According to the learned counsel appearing for the management there is an apparent mistake on the face of records committed by this tribunal in ordering reinstatement and the said portion of the order has to be reviewed and an opportunity is to be given to the management to prove the charge against the workman. In view of the prayer made by the management in the written statement for an opportunity being given, I have considered the argument of the learned counsel appearing for the management and the decision relied by the learned counsel appearing for the worker carefully. In the head notes of the above decision it is held as follows:

"Tribunal's power to consider the domestic enquiry and ask for fresh evidence—management, if does not lead evidence—management would suffer. If the management does not lead any evidence by availing of this opportunity, it cannot raise any grouse at any subsequent stage that it should have been given that opportunity, as the Tribunal, in those circumstances, would be justified in passing an

award in favour of the workman. If however, the opportunity is availed of and the evidence is adduced by the management, the validity of the action taken by it has to be scrutinised and adjudicated upon on the basis of such fresh evidence".

In the case on hand the management has no doubt asked for an opportunity to be given to lead evidence before this Tribunal to prove the charge against the workman in case this tribunal holds that the enquiry is not proper. This tribunal has considered the Roznama record on 07-5-97 which is as follows:

"Mrs. Pooja Kulkarni, Advocate for management. Mr. S. S. Joshi for workman. Mrs. Kulkarni states that she did not want to lead any oral evidence. She closes her evidence. Put up on 02-7-97 for arguments on the question of legality, propriety and fairness of the domestic enquiry".

On a mistaken impression that the management does not chose to lead evidence, on the basis of the above Roznama this tribunal has passed an award reinstating the workman with back wages. The tribunal carefully went through the entire Judgement of the Supreme Court relied by the learned counsel appearing for the workman. In the above decision their lordship have referred to an earlier decision between the workman of M/s. Fire Stone Tyre and Rubber Co. of India Pvt. Ltd. v/s. The management and others, which was decided after the introduction of Section 11(A) of the Act. In the above decision the Court has observed as follows:

"We are therefore, clearly of opinion that when a case of dismissal or discharge of an employee is referred for industrial adjudication, the Labour Court should first decide as preliminary issue; whether the domestic enquiry has violated the principles of natural justice. When there is no domestic enquiry or defective enquiry is admitted by the employer, there will be no difficulty. But when the matter is in controversy between the parties, that question must be decided as a preliminary issue. On that decision being pronounced, it will be for the management to decide whether it will adduce any evidence before the Labour Court. If it chooses not to adduce any evidence, it will not be thereafter permissible in any proceeding to raise the issue." This decision makes it clear that the 'stage' at which the employer has to ask for an opportunity to adduce evidence for justifying its action is the stage when the Tribunal finally comes to the conclusion that domestic enquiry was invalid".

In the decision relied by the learned counsel appearing for the workman, the Supreme Court has also referred to the decision in the East India Hotels vs. Their workman and others, The Cousa Engineering Limited v/s. B. B. Mundhe and had observed that the view expressed by their lordship in the Fire Stone Tyre Rubber Company's case has been followed in subsequent decisions also. Referring to the decision in Shankar Chakravarthi v/s. Britannia Biscuit Co. and another their Lordships have stated that the Court observed that if a request by the management to adduce additional evidence is made in the pleadings, the Tribunal is to give an opportunity to the

management to lead fresh evidence. Their lordship have also observed as follows:

"In view of the above, the legal position as emerges out is that in all cases where enquiry has not been held or the enquiry has been found to be defective, the Tribunal can call upon the management or the employer to justify the action taken against the workman and to show by fresh evidence, that the termination of dismissal order was proper. If the management does not lead any evidence by availing of this opportunity it cannot raise any grouse at any subsequent stage that it should have been given that opportunity, as the Tribunal, in those circumstances would be justified in passing an award in favour of the workman".

From the above decision it is clear that the stage at which the employer has asked for an opportunity to adduce evidence for justifying its action is the stage when the tribunal finally comes to the conclusion that the domestic enquiry was invalid and in this requests can be made even in the pleadings. In the case on hand even though the management has asked for an opportunity being given to adduce evidence before this tribunal in case the tribunal comes to the conclusion that the enquiry is not valid and proper, in view of the closing of the evidence by the learned advocate for the management on 07-5-96 this Court has committed an error while passing as award reinstating the workman with back wages and other benefits under the impression that the management had not let any evidence by availing the opportunity to asked a fresh evidence. I am, therefore, of opinion that it is a fit case in which the award passed by this tribunal on 9th March, 1999 is to be reviewed. The enquiry was not fairly and properly held and the finding of the Enquiry Officer is perverse, and it is ordered as follows:

"The action of the management of Air-India Ltd. in terminating the service of Mr. Abreo, Loader is not justified. An opportunity is therefore, given to the management to prove the charge against the workman Mr. Abreo."

Call on 15th April 1999 for further proceedings.
Pronounced by me in open Court on 19-3-99.

C. V. GOVARDHAN, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI PRESENT

Justice Ghanshyam Dass,
Presiding Officer

REFERENCE NO. CGIT-18 OF 1993

PARTIES : Employers in relation to the management of Air-India

AND

Their Workmen.

APPEARANCES:

For the Management	: Mr. Lancy D'Souza, Adv.
For the Workman	: Mr. R. S. Pai, Adv.
	Workman present in person.
State	: Maharashtra

Mumbai, dated the 10th day of November, 2005.

AWARD - PART II

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section 1 and sub-section 2A of Section 10 of the Industrial Disputes Act 1947 (the Act for short). Vide Government of India, Ministry of Labour, New Delhi, order No. L-11012/7/92-IR (Misc) dated 23/2/1993. The terms of reference given in the schedule are as follows:

2. "Whether the action of the management of Air India in terminating the services of Shri. A. D. Abreo, Loader justified? If not, to what relief the workman is entitled?"

3. Admittedly, the workman Mr. Abreo was on duty in the third shift being allocated for off loading the baggages from the cargo hold of the Flight AI-812 on the intervening night of 29/30-6-1986.

4. On 30-6-1986 at about 3.20 hours in the morning, the workman was observed by Security Personnel on duty near the aircraft that the workman was removing something from the suit case of the passenger with duplicate keys. On personal search carried out on the person of the workman, he was found to be in possession of a red colour nylon saree hidden below his pant. He also found in possession of big bunch of keys of various types (foreign make). When he was interrogated by the security, he is alleged to have admitted his guilt of commission of theft and one saree of concealing it with him. He also alleged to have admitted recovery of saree and bunch of keys on his possession for which his admission was reduced to writing and it was duly signed by the workman. The panchnama was prepared for recovery of bunch of keys and the same was also signed by the workman. The workman was issued accordingly a charge sheet regarding the theft of property entrusted to the Corporation. The witness denied the charge leveled against him and alleged that he has been victimized by the Head Security Personnel, Mr. Nain Singh. The enquiry Committee consisting of two persons was formed and the domestic enquiry was conducted which found the workman guilty of the theft. Finally, the workman was imposed the penalty of removal from service. An approval application was moved by the Air India which was allowed by the National Industrial Tribunal. The workman raised the Industrial dispute, the conciliation proceedings failed before the concerned Regional Labour Commissioner. Hence the reference.

5. The Part-I Award in the instant reference was made by the predecessor in office on 09-3-1999 whereby the domestic enquiry conducted by the Enquiry Officer was not found to be fair and legal and the charges leveled against the workman were not found to be proved. With these findings, the then Presiding Officer passed the award

in the terms that the action of the management in terminating the service of Mr. Abreo, Loader (workman) is not justified and therefore, he is entitled to relief of reinstatement with back wages. However, a review application was moved by the Air India Ltd and thereupon the then Presiding Officer reviewed the aforesaid order and permitted the Air India to lead evidence to prove the charge against the workman before this tribunal. The findings regarding the fairness of the enquiry became final since it has not been challenged by the Air India in any higher Court. Thus, the question which is to be decided at this juncture by this tribunal in this Part-II Award is as to whether the Air India has successfully proved the charge leveled against the workman Mr. Abreo for which he is being removed from service.

6. During the course of proceedings, after giving opportunity to the Air India for proving the charge by the predecessor in office, the management examined three witness namely, Nain Singh, R.K. Puri and Mr. M.N. Murthy while the workman examined himself. The management has also heavily relied upon the admission made by the workman himself which is available on the file of the enquiry proceedings as paper no. 100-101 (Ex.-M1). It is dated 30-6-86. It is admittedly signed by the workman himself. This admission is in addition to the evidence of three witnesses.

7. I have heard the learned counsel for the parties and have gone through the written submissions made by them. The entire record is perused by me.

8. The main contention for the learned counsel for the workman is that whatever evidence in the form of three witnesses has been laid by the management has been considered in detail by the predecessor in office while passing Part-I Award dated 9-3-99. The evidence of these three witnesses has already been held to be unreliable for the reasons incorporated in the Award. The same evidence cannot be relied upon by this tribunal. That being so, it is emphasized before me that the charge of theft is not proved on record.

9. The learned counsel for the Air India submitted that the evidence in the form of admission made by the workman is by itself sufficient to hold the workman guilty for the theft.

10. On a perusal of the evidence available on record, it is clear that there is evidence about the proof of the guilt of the accused which is Ex-M-7 and M-9. The workman admittedly signed both the aforesaid documents. The defence is that he was forced to sign and that he has been falsely implicated by Mr. Nain Singh. Now the question arises as to whether the workman has been successful in showing that the aforesaid documents may not be relied against him. The workman had the opportunity to explain the aforesaid admission at the earliest when he filed his reply to the charge sheet and he did explain while saying that he was severely beaten up by Mr. Murthy and Nain and he was forced to sign the aforesaid statement. He also stated that he was forced to sign on blank panchnana which is a document regarding the recovery of saree from the possession of the workman. It is surprising that when the workman filed his affidavit before this tribunal he did

not specify about the severe beating or assault. Mr. Nain and Murthy were cross examined by the workman before this tribunal but no suggestion to the aforesaid extent was made to these witnesses. The workman was suspended on 4-7-86. Further, the workman made certain admission in his cross examination before this tribunal which are relevant. The workman admitted that he did not make any report to the Police. He did not get himself medically examined either at Air India Medical Clinic or in a private Nursing Home. He did not make any complaint to the management regarding the alleged torture. He did not inform the Air India Employees Guild about the alleged beating etc. He did not make any complaint against Mr. Nain Singh or Murthy regarding the alleged beating or assault. He also admitted that he can read and write English as well. He was aware of what is being written in the document dtd. 30-6-1986 to which he had put his signature regarding admission of guilt. In these circumstances, the admission of guilt made by the workman himself cannot be easily brushed aside. It is a material piece of evidence which goes against the workman and has not been rebutted by any evidence what soever on record.

11. The workman contended before this tribunal at the time of passing of the Part-I Award that Mr. D. C. Dholi was an eye witness being present at the relevant time and since he was not examined before the Enquiry Committee the enquiry report was vitiated. This contention of the workman was not accepted by the predecessor in office while passing Award-I with the observation that Mr. Dholi who was an eye witness should have been examined by the workman himself and no reason has been assigned for his non-examination. The workman since then did not care at all to examine Mr. Dholi before this tribunal.

12. The evidence of three witnesses examined before this tribunal is the same which had been earlier before the Enquiry Committee and which had not been found to be reliable to prove the charge by this tribunal. In this view of the matter, the workman emphasized that the charge of theft is not good. I feel that this contention is not acceptable. No doubt, the evidence of the three witnesses is the same and in view of the propriety. I am not supposed to have a different approach for the evidence of the witnesses at this juncture but I feel that the additional evidence which is being led before this tribunal by Air India with respect to the admission made by the workman himself and which has not been successfully shown to have been made under some inducement or threat or in view of severe beating or assault, I feel that the aforesaid evidence of admission is by itself sufficient to prove the charge of theft against the workman. The evidence of other witnesses can be taken to be the evidence in support of the aforesaid evidence. The predecessor in office did not discuss at all the aforesaid admission while rejecting the report of the Enquiry Committee for the charge.

13. The workman has not disputed that the saree was actually found on the spot. The only contention is that the workman did not steal it. It is emphasized that no passenger ever complained about the loss of saree nor any baggage of the passenger was found to be tampered with. All the baggages were found intact. To my mind, all

these submissions have got no merit. The bunch of keys recovered from the possession of the workmen is another circumstance against the workman to prove the guilt. It goes unexplained as to how the workman was found in possession of bunch of keys (foreign make). Admittedly, the panchnama also bears the signature of the workman.

14. In a case reported in 2001 Lab IC 2713 Bombay High Court, Hotel Horizon Pvt. Ltd. Vs. Bhartiya Kamgar Karmachari Mahasangh and others, the workman was found in possession of Rs. 16,350 which was not explained. The Honourable High Court observed that non-examination of any customer or non-receipt of any theft of money was not necessary. The amount was ceased from the possession of the workman and hence it was sufficient for the loss of confidence by the employer and thus sufficient for dismissal.

15. In a case reported in 1966(1) LLJ 292, Bombay High Court, Syed Waris Husain v/s. The Stolt Tyre & Rubber Company of India (Pvt.) Ltd., the dismissal of the workman was upheld on the basis of Statement of the delinquent employee before the Security Officer admitting his guilt.

16. In a case reported in 2002 ICLR 387 before the Bombay High Court, Podar Mills (Process House) v/s. Kamlakar G. Sawant, the dismissal was upheld in case of charge of misconduct for committing theft of metal pieces.

17. The learned counsel for the workman also challenged the order of removal on the ground of competency of the Authority. I feel that if could not be challenged at this juncture since it had not been challenged earlier at the time of passing of the Part-I Award. Besides this, the AIR India has filed a copy of the Office order dated 10-11-1987 wherein the Dy. Director Ground Services has been empowered to emphasise powers of issuing charge sheets and orders relating to constitution of Enquiry Committee's arising out of disciplinary cases relating to misconduct and to pass orders under Regulation 43B of the Air India Employees Services Regulation read with Schedule.

18. Considering the entire evidence available on record and keeping in mind the discussions made above, I conclude that the charge of misconduct on account of theft is proved on record against the workman and thus the punishment of removal from service has been rightly passed against the workman. The action of the management in this regard is held to be justified. The workman is not entitled to any relief.

19. The reference is accordingly answered in affirmative.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 2005

का.आ. 4773.—आधोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आधोगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायलय धनवाद II के पंचाट (संदर्भ संख्या 255/2001) को

प्रकाशित करती है, जो केन्द्रीय सरकार को 30-11-2005 को प्राप्त हुआ था।

[सं. एल-20012/284/2001-आई आर (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 1st December, 2005

S.O. 4773.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 255/2001) of the Central Government Industrial Tribunal/Labour Court, Dhanbad II now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 30-11-2005.

[No. L-20012/284/2001-IR(C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, AT DHANBAD

Present

SHRI B. BISWAS Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I. D. Act, 1947.

REFERENCE NO. 255 OF 2001.

Parties : Employers in relation to the management of Govindpur Area No. III under the General Manager of M/s. Bharat Coking Coal Ltd.

And

Their Workman.

Appearances :

On behalf of the workman : Mr. N. G. Arun, Organising Secretary, R. C. M. S. Dhanbad.

On behalf of the employers : Mr. D. K. Verma, Advocate. State: Jharkhand : Industry : Coal.

Dhanbad, the 8th November, 2005.

AWARD

1. The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012/284/2001-IR (C-1), dated, the 18th April, 2001.

SCHEDULE

“KYA BHARAT COKING COAL LIMITED
GOVINDPUR KSHETRA-III KEY PRAVANDH-
TANTRA DWARA SHRI UDAY SINGH KI JANAM
TARIKH 15-5-1947 KO SAHI NA MANA JANA
UCHIT EVAM NAYA SANGAT HAI ? YADI
NAHI TO KARAMKAR KIS RAHAT KEY
PATRA HAI ?

2. Case of the concerned workman according to Written statement submitted by the sponsoring union on his behalf in brief is as follows :—

The sponsoring union submitted that the concerned workman initially got his appointment at Teturiya Colliery on 26-4-97 as Night Guard. They submitted that thereafter management issued I.D. Card to him wherein his Date of birth was recorded as 14-5-47. In the year 1987 management issued service excerpt to him wherein also his date of birth was recorded as 14-5-47. Thereafter again management issued Antena Card in the year 1998 wherein also his date of birth was recorded as 14-5-47. They alleged that management by Office Order bearing No. Form 'B' / 15/96 dated 18/19-6-96 informed the concerned workman that his date of birth has been changed as 5-4-43 in place of 14-5-47. As soon as he received that letter he filed a petition to the management raising protest about the change of his date of birth illegally, arbitrarily and violating the principle of natural justice and requested the management to consider his date of birth as 14-5-47 and not as 5-5-43. But as the management did not consider his prayer he raised industrial dispute for conciliation before the ALC(C), Dhanbad which ultimately resulted reference to this Tribunal for adjudication. The sponsoring union accordingly submitted prayer to pass award directing the management to accept the date of birth of the concerned workman as 14-5-47 instead of 5-5-43.

3. Management on the contrary after filing written statement-cum-rejoinder have denied all the claims and allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workman. They submitted that the concerned workman got his employment on 26-4-1967 at Teturiya Colliery in Govindpur Area and at the time of his employment his particulars including date of birth as 5-5-43 were recorded in the Form B Register which is considered as statutory register as per Section 48 of the Mines Act, 1952. They admitted that in some record date of birth of the concerned workman was recorded as 14-5-47 instead of 5-5-43. After proper examination of the documents management of Govindpur Area came to the conclusion that the date of birth of the concerned workman was wrongly recorded as 14-5-47 and accordingly issued an office order for correction of wrong entry and the Project Officer, Teturiya Colliery corrected his date of birth as 5-5-43 in all records relying on the date of birth recorded in the Form B register. Accordingly management submitted that neither they committed any illegality nor took any arbitrary decision in changing the date of birth of the concerned workman as 5-5-43 in place of 14-5-47 and for which they submitted prayer that the claim of the concerned workman is liable to be rejected.

4. POINTS TO BE DECIDED :

" KYA BHARAT COKING COAL LIMITED,
GOVINDPUR KSHETRA III KEY

PRAVANDHTANTRA DWARA SHRI UDAY
SINGH KI JANAM TARIKH 15-5-1947 KO SHAI
NA MANAJANA UCHIT EVAM NAYA SANGAT
HAI ? YADI NAHI TO KARMKAR KIS RAHAT
KEY PATRA HAI?"

5. FINDING WITH REASONS :

It transpires from the record that the sponsoring union with a view to substantiate the claim of the concerned workman examined him as WW-1. Management also in support of their claim examined one witness as MW-1. Considering the evidence of both sides and considering the facts disclosed in the pleadings of both sides I find no dispute to hold that the concerned workman got his appointment as Night Guard at Teturiya Colliery on 26-4-67. The erstwhile owner according to the evidence of WW-1 of the said colliery was Karamchand Thapar the concerned workman during his evidence submitted that at the time of his entry in the service his date of birth in the Form B Register was recorded as 14-5-47. After nationalisation the present management became the owner of this colliery and issued I. D. Card to him herein his date of birth are recorded as 14-5-47 (Ext. W-1). He further submitted that in the year 1987 management issued Service excerpt to him wherein his date of birth was recorded as 14-5-47 marked as Ext. W-2. In the year 1992 management issued computerised I. D. Card to him herein also his date of birth was recorded as 14-5-47 (Ext. W-3). He alleged that in the year 1996 management issued an office order to him wherein his date of birth was declared as 5-5-43 and on receipt of the said office order he immediately submitted representation to the management challenging that date of birth recorded therein i.e. 5-5-43. Copy of the representation during his evidence marked as Ext. W-4 the contrary MW-1 during his evidence producing original Form B Register of the management submitted that the name of the workman along with all particulars was recorded in Sl. No. 93. In the said register his date of birth was recorded as 5-5-43. Form B Register during evidence of MW-1 was marked as Ext. M-1. As per the Form B Register date of birth of the concerned workman was recorded as 5-5-43 in place of 14-5-47. Office copy of the said office order during evidence of MW-1 was marked as Ext. M-2. He submitted that the concerned workman superannuated on and from his date of Superannuation as per the date of birth recorded in the Form B Register and accordingly disclosed that the claim of the concerned workman is not justified. This witness during his evidence failed to disclose if that Form B Register which was produced before this Tribunal in course of hearing was prepared either by the erstwhile owner or by the present management. However, he disclosed that Form B Register which the management relies on bears L.T. I. of the concerned workman. I have considered the Form B Register from which it transpires that date of birth as well as date of entry in the service of the concerned workman have been recorded as 5-5-43 and

26-4-67 respectively. I also find that one L. T. I. was taken in the column of the Form B Register earmarked for the employees. But it is silent by whose pen the said L. T. I. was taken. Accordingly it cannot be ascertained if L. T. I. appearing in the respective column of the Form B Register was the L. T. I. of the concerned workman. It is seen that in the year 1972 i.e. after nationalisation of Teturiya Colliery management issued one I. D. Card to the concerned workman wherein his date of birth was recorded as 14-5-47 (Ext. W-1). In the year 1987 management issued service excerpt to the concerned workman herein also his date of birth was recorded as 14-5-47 (Ext. W-2). Computerised I. D. Card was issued to the concerned workman by the management on 14-4-93 wherein also his date of birth is recorded as 14-5-47. Considering all these papers marked as Ext. W-1, W-2 and W-3 there is no dispute to hold that date of birth of the concerned workman was recorded as 14-5-47. It is seen that immediately after nationalisation of the Teturiya Colliery management issued I. D. Card to the concerned workman wherein his date of birth was recorded as 14-5-47. Particulars in the I. D. Card including date of birth are prepared as per I. D. Card register maintained by the management. It, therefore, can easily be presumed that date of birth appearing in the I. D. Card issued in favour of the concerned workman in the year 1972 was taken from the I. D. Card register. Similarly particulars recorded in the Service Excerpt are recorded from the entry as per Form B Register. It is admitted fact that management issued service excerpt to each workman with the intention to seek comments from the workers relating to the correctness of the entries made in the Form B Register. The entries in the Service excerpt were made from the entries recorded in the Form B Register in respect of the respective workman. Obviously the concern did not raise any objection when he found that his date of birth was recorded correctly in the service excerpt. It is further seen that in the year 1993 computerised I. D. Card was issued to the concerned workman wherein also his date of birth was recorded as 14-5-47. Therefore, it is clear that in different register of the management date of birth of the concerned workman was recorded as 14-5-47. It is the contention of the management that due to mistake wrong date of birth of the concerned workman was recorded in different register of the management and when that mistake was detected it was rectified and accordingly communicated the decision of the management to the concerned workman by office order marked as Ext. M-2. It is the statutory obligation of the management that the moment a workman gets employment his all particulars including date of birth should be recorded in the form B register. It is admitted fact that management was not the owner of Teturiya Colliery when in the year 1967 the concerned workman got his employment. As per Mines Act, obviously date of birth of the concerned workman and his other particulars were recorded in the Form B Register by the erstwhile owner in the year 1967 when he got his employment. After nationalisation of Teturiya Colliery in the year 1972 the

present management became the owner of the same and in the same year management issued I. D. Card to the concerned workman wherein his date of birth was recorded as 14-5-47. Therefore, it was bounden duty of the management to produce the original Form B Register maintained by the erstwhile owner where particulars including date of birth of the concerned workman were recorded. MW-1 during his evidence has categorically failed to disclose if the Form B Register which was produced in course of hearing before this Tribunal on the part of the management was the Form B Register maintained by the erstwhile owner where particulars including date of birth of the concerned workman were recorded. It is fact that management produced Form B Register in course of hearing (Ext. M-1) but when as per the admission of MW-1 it cannot be ascertained if this Form B Register was that Form B Register maintained by the erstwhile owner there is doubt if the date of birth recorded in this Form B Register was actually recorded from the Form B Register maintained by the erstwhile owner. JBCCI circular has clearly pointed out that when it is apparent that different dates of birth of a workman are recorded in different register in that case to wipe out such discrepancy the age of that concerned workman is required to be assessed by the Apex Medical Board for assessment of his age. In view of my discussion above it is clear that in different register of the management date of birth of the concerned workman was recorded as 14-5-47 while in the Form B Register his date of birth was recorded as 5-5-43. As the management has failed to establish that the Form B Register which they produced was the Form B Register maintained by the erstwhile owner it cannot be ascertained if the date of birth based on the Form B Register as 5-5-43 was correctly recorded in the Form B Register or not which they produced in course of hearing. It is seen that immediately after receipt of the said office order Ext. M-2 the concerned workman raised his objection over correction of his date of birth, but management did not consider his such prayer though as per JBCCI Circular they with a view to avoid further dispute had the scope to refer the concerned workman before the Apex Medical Board for assessment of his age. There is no dispute at all that Form B Register is a statutory register and all entries made therein are binding on both sides. Considering the documents which have been discussed above suspicion has been arisen if the date of birth recorded in the Form B Register which the management is relying on was correctly recorded or not. If it was recorded correctly in that case there was no scope at all to record the date of birth of the concerned workman as 14-5-47 in different registers. Accordingly in view of the facts and circumstances discussed above I hold that age of the concerned workman is required to be assessed by the Apex Medical Board for the interest of justice. In the result, The following Award is rendered :—

“The action of the management of Govindpur Area III of M/s. BCCL in not accepting the date of

birth of the workman concerned Shri Uday Singh as 15-5-1947 is not legal and justified. Consequently, in view of the observation made in the body of the Award management is directed to send the concerned workman to the Apex Medical Board for assessment of his age complying the strict provision of Medical Jurisprudence within three months from the date of publication of the Award. The decision of the Apex Medical Board in the matter of assessment of age should be final and binding upon both sides".

B. BISWAS, Presiding Officer

मई दिल्ली, 1 दिसम्बर, 2005

का. आ. 4774.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायलय, धनबाद II के पंचाट (संदर्भ संख्या 67/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-11-2005 को प्राप्त हुआ था।

[सं. एल-20012/481/2001-आई आर (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 1st December, 2005

S.O. 4774.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 67/2001) of the Central Government Industrial Tribunal/ Labour Court, Dhanbad II now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 30-11-2005.

[No. L-20012/481/2001-IR(C-1)]
S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, AT DHANBAD

PRESENT:

Shri B. Biswas, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I. D. Act, 1947.

REFERENCE NO. 67 OF 2001.

PARTIES: Employers in relation to the management of Bastacola Area of M/s. BCCL and their workman.

APPEARANCES:

On behalf of the Workman: Mr. K. N. Singh.
Ld. Advocate.

On behalf of the employers : Mr. D. K. Verma,
Ld. Advocate.

State : Jharkhand : Industry : Coal.

Dated, Dhanbad, the 8th November, 2005.

AWARD

1. The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I. D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their order No. L-20012/481/2001(C-1) dated 19th February, 2001.

SCHEDULE

"Whether the action of the management of M/s. BCCL in not regularising the services of Shri B. N. Singh, P. No. 01196575 as Loading Munshi is Justified, legal and proper? If not, to what relief is the workman entitled and from what date?"

2. The case of the concerned workman according to written statement submitted by the sponsoring union on his behalf in brief is as follows:

The sponsoring union submitted that the concerned workman is a General Mazdoor in permanent capacity at Dobari Colliery. They submitted that in the year 1999 management through office order No. D/IX 97/191 dt. 18-9-97 authorised the concerned workman to work as Munshi at the siding and he started working as such in compliance to the said order. They submitted that as he discharged his duties continuously being a Loading Munshi, in the year 1999 submitted representation to the management for his regularisation but they did not give any importance to his said representation and for which he raised an Industrial Dispute before ALC(C), Dhanbad for conciliation which ultimately resulted reference to this Tribunal for adjudication.

Accordingly, the sponsoring union submitted prayer to pass award directing the management to regularise the concerned workman as Loading Munshi w.e.f. 10-9-97 with back wages and consequential relief.

3. Management on the contrary after failing written statement-cum-rejoinder have denied all the claim and allegations which the sponsoring union asserted in the written statement submitted on behalf of the concerned workman.

They submitted that the concerned workman is a permanent employee of Dobari Colliery and working as a General Mazdoor in Cat. II.

They submitted that the post of Loading Clerk is a clerical post under Cadre Scheme and promotion in the clerical cadre is considered only on the basis of recommendation made by D.P.C. and Cadre Controlling Authority if vacancy exists. They submitted that there is no vacancy of Loading Munshi at Dobari Colliery. They alleged that as concerned workman by designation is a

General Mazdoor he was asked to work in the under ground by order No. 133 dt. 14-2-2000 but instead of joining there he started absenting from duty without giving any information or taking leave from the management. Accordingly a charge sheet was issued to him to which he submitted his reply and further course of action in that regard is pending. They submitted that the concerned workman pending decision of that dispute with a view to save his skin taking a false plea raised Industrial Dispute with active support of the Union in connection with this case.

They categorically submitted that as the concerned workman never acquired the status of Loading Munshi question of his regularisation never arose.

Accordingly, they submitted prayer to pass award rejecting the claim of the concerned workman.

4. POINTS TO BE DECIDED

“Whether the action of the management of M/s BCCL in not regularising the services of Shri B. N. Singh, P. No. 01196575 as Loading Munshi is justified, legal and proper? If not, to what relief is the workman entitled and from what date”.

FINDING WITH REASONS

5. The instant reference case was taken up for exparte hearing as neither the sponsoring union nor the concerned workman considered necessary to appear with a view to substantiate their claim though with all sincerity they raised Industrial Dispute before ALC(C) being aggrieved by the decision of the Management.

In course of exparte hearing management examined one witness as M. W. I in support of their case. Considering the facts disclosed in the pleadings of both sides and also considering evidence of M. W. I there is no dispute to hold that the concerned workman was a permanent employee of the management and posted at Dobari Colliery as General Mazdoor in Cat. II. M. W. I during his evidence disclosed that management issued an order asking the concerned workman to work in the underground but he instead of complying the said order started remaining himself absent from duty for which a charge sheet was issued to him and thereafter a domestic enquiry was initiated against him which is still pending. This witness further disclosed that the Concerned Workman never worked as Munshi at Dobari Colliery and for which question of his regularisation never arose. He disclosed that the post of clerk is filled up by way of selection/interview subject to fulfilment of academic qualification. If the selection process of clerk in clerical grade as per N.C.W.A. is taken into consideration it will definitely support the claim of the management. As per that provision there is no other mode by which a person in the category of General Mazdoor can be regularised in the

post of clerk which is a cadre post.

It is the contention of the sponsoring union as per written statement that the concerned workman was authorised to work as Loading Munshi in the clerical grade *vide* office order No. D/IX/99/191 dt. 18-9-97 and thereafter he started workman in that capacity continuously. It has been alleged that management refused to regularise the concerned workman in the post of Loading Munshi when the sponsoring union by letter No. 56/2000 dt. 17-2-2000 requested them in that regard. In this regard it is to be taken into consideration if the officer who issued that order was competent to issue such order or not. Secondly, it is also to be looked into for how many years the concerned workman was exploited by the management to render higher responsibility without giving any difference of wages and if he was allowed to work in that capacity against clear vacancy. The sponsoring union also can not exonerate their responsibility to produce relevant papers to show that the concerned workman actually performed his duties as Loading Munshi for years together though he was by designation a general mazdoor in Cat. II.

It transpires that inspite of getting ample opportunity the sponsoring union did not consider necessary to substantiate the claim of the concerned workman through initial burden of proof was on them. Facts disclosed in the written statement submitted by the sponsoring union can not be considered as substantive piece of evidence until and unless the same is substantiated by cogent evidence or any part of the same is not denied by the opposite party. It is seen that the sponsoring union after filing written statement in the instant reference case has lost their all interest though with all seriousness raised Industrial Dispute before ALC(C) as the management did not consider their claim. Such inaction on the part of the sponsoring union will expose clearly how vigilant they are in upkeeping the interest of a workman. Not an iota of cogent evidence came before this Tribunal in course of final hearing of this case on the part of the sponsoring union and for which just based on the facts disclosed in the written statement there is no scope at all to uphold the claim of the concerned workman particularly when the management by adducing evidence exposed clearly under which circumstances the sponsoring union raised Industrial Dispute.

As the sponsoring union has lamentably failed to establish their claim the concerned workman is not entitled to get any relief.

In the result the following award is rendered ex parte:

“That the action of the management of M/s. BCCL in not regularising the services of Sri B. N. Singh, P. No. 01196575 as Loading Munshi is justified.

Consequently the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 1 दिसंबर, 2005

का. आ. 4775.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रिम न्यायालय, नई दिल्ली-II के पंचाट (संदर्भ संख्या 65/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2005 को प्राप्त हुआ था।

[सं. एल-11012/47/97-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 1st December, 2005

S.O. 4775.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 65/1998) of the Central Government Industrial Tribunal/Labour Court, New Delhi-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air India and their workman, which was received by the Central Government on 28-11-2005.

[No. L-11012/47/97-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT-II, NEW DELHI

R. N. RAI, Presiding officer

ID No. 65/1998

In the matter of :

Shri Sumer Singh,
S/o Sh. Itwari Lal
R/o H.No. 34, Mahipalpur Dairy,
New Tata Nagar,
New Delhi-110037.

VERSUS

Commercial Manager,
I.G.I. Airport,
New Delhi.

Dy. Manager (Personal)
I.G.I. Airport,
New Delhi

The Managing Director,
Air India,
Nariman Point,
Bombay.

AWARD

The Ministry of Labour by its letter No. L-11012/47/97-IR (C-I) Central Government Dt 19-02-1998 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the Management of Air India in dismissing Shri Sumer Singh, Loader, ST No. 41018 from service with effect from 24-9-93 is just, fair and legal ? If not, what relief the concerned workman is entitled and from what date ?”

That the Petitioner/workman was working as a Loader in the Commercial Department and has been removed from service by the Commercial Manager vide his order dated 24-9-1993, on the basis of the ex parte enquiry proceedings especially when the Petitioner/workman is illiterate. The said enquiry proceedings has been conducted in a careless manner which lacks applications of mind on the Enquiry Committee and would, therefore, require before this Hon'ble Court to kindly consider this case for reinstatement in services with back wages on the following grounds.

At the outset, the petitioner/workman would like to mention that the copy of the enquiry report has not been made available to the Petitioner, especially when the proceedings were conducted ex parte and thus depriving Petitioner of furnish his comments on the finding of the Enquiry Committee which is illegal, ultravires, bad in law and against the principles of natural justice. It has been held in the various Judgement of the Supreme Court that wherever there has been an enquiry and at the conclusion of the enquiry, the delinquent is entitled to get the enquiry report so as to entitle him to make representation against the findings of the Enquiry Committees. “NOT FURNISHING” of the enquiry report would amount to violation of rules of natural justice and would make the order illegal. In order words, I was given no opportunity to enable the Petitioner to make his representation on the findings of the Enquiry Committee especially when it was conduct ex parte and thus has prejudiced this case.

That the Petitioner placed strong reliance on the Judgement in the case of Union of India Vs. Mohd. Ramzan Khan reported in the L.L.J. 1991 Vol. 1, page 29. Whether the Hon'ble Court so desire, the Hon'ble Court may kindly get this matter examined from his judicial mind, thereafter you may find that the whole action of the management was taken against the Petitioner which is really illegal and unjustified. The Petitioner entitled to the re-instated on this ground alone with amongst other grounds, which are as under.

That the disciplinary action against the Petitioner is an act of colorable exercise of power and lacks judicious use of discretion vested in Management in this regard as there are large number of employees who have been remaining absent for much larger number of days than the Petitioner, but no disciplinary action has been initiated against them or even in some cases after initiation of disciplinary proceedings. They have been let off with very minor punishment, whereas in this case they have dismissed him.

That the disciplinary proceedings have been conducted in a most careless manner and shows total lack of application of mind on the part of the Competent Authority as well as member of the enquiry committee, which is evident from the following facts:

- (i) That the charge-sheet No. MDA/A-21/654 dated 16/29-05-91 was received by Petitioner on dt. 3-6-91 and without waiting for the reply. Competent Authority vide his letter No. MDA/A-21/762 dated 7-6-91 informed that it has been decided to constitute Enquiry Committee to look into the charges.
- (ii) That the Enquiry Committee earlier constituted vide competent authority's letter No. MDA/A-21/857 dated 19-6-91 did not commence enquiry proceeding dated 8-10-92 the Competent Authority constituted another committee to look into the charges levelled against petitioner/workman. Thus, two committees were constituted to look into the same charges for the reasons best known to the management.
- (iii) That the first committee did not commence any proceeding as per management's own case and whereas second committee fixed its proceedings on six occasions out of which on three occasions it cancelled the same due to its own preoccupation or faults, out of the remaining three, intimation was received by workman only on one occasion when he had signed an acknowledgement slip in token of receipt of intimation. Therefore, conducting ex parte proceedings just on the basis of absence on one occasion, that too when proceedings were postponed due to preoccupation of the Enquiry Committee, is totally uncalled for, arbitrary and capricious which no man of normal prudence would have done.

That the Competent Authority has not taken into account the significantly improved attendance of the workman during the pendency of the enquiry proceedings and even thereafter till his services were dismissed, which is against the established view of the Apex Court and other High Courts that Justice must be tampered with mercy and erring official must be given an opportunity to reform himself.

That the Petitioner/workman has been verbally informing his immediate supervisor before availing the leave. Since leave cards are not available within the department and kept in personal department, which is open only during general shift and located at a distance of 1.5 Kms, it is not always possible for Petitioner to fill in the details of his leave on the leave card which is purely a clerical work, and could leave card which is purely a clerical

work, and could be easily attended by the time office clerk. The leave standing to his credit as on 1-7-90 is 113.5 days privilege leave, 10 days casual leave and 28 days sick leave which shows that the Petitioner is not a habitual absentee and did not indulge in act subversive of discipline.

That the finding of the Enquiry Committee is based on total lack of appreciation of evidence both oral and documentary. The evidence is totally insufficient to arrive at the conclusion reached by Enquiry Committee without giving any reasoning in support of its conclusion. Moreover, no Loading Supervisor has been produced by the Management as its witness in support of the charges levelled against the Petitioner/workman, to whom the workman reports. The Enquiry Committee has imported their personal knowledge and enlarged the scope of the charge sheet by adding Section 14(3) (e) of Model Standing Orders. Moreover, there are gross mistakes of omission and commission in the enquiry report. In the analysis of evidence, no reasons have been given by the committee to arrive at conclusion in support of the charge having proved against the Petitioner/workman. Even for holding ex parte enquiry proceedings and report have been conducted and written in gross violation of principles of natural justice and hence should not be relied upon by Competent Authority for awarding the punishment to the petitioner/workman.

That it is strongly reiterated that punishment awarded to the Petitioner is totally disproportionate to the charges levelled against the Petitioner without taking into account his improved attendance and large number of leave standing to his credit, his long years of services, his family responsibilities and old age.

That in view of the finding of the Supreme Court as reported in Mr. Mohd. Ramzan's case mentioned above, since copy of the enquiry report has not been made available and prejudice has been caused to the Petitioner and the punishment is totally disproportionate to the charge of absence. It may also be mentioned that Petitioner has about 113 days privilege leave to his credit and is not understood as to how he has been treated as absent on loss of pay when, he has been invariably conveying oral message to his bosses in view of sickness and death in his family, who had sent a Demand Notice to the Chairman/Managing Director, Air India on the said date and no reply has been received.

That in above mentioned facts and circumstances of the case, I referred judgement dated February 6, 1998 in SLP (C) No. 1079 of 1998 of Supreme Court of India and other cases i.e. Central Inland Water Transport Corporation Limited & Anr. Vs. Brojo Nath Ganguly & Anr, [1996 (3) SSC 156=1986 (1) SCALE-799].

Escorts Ltd. Vs. Presiding Officers [1997(11) SOC-621].

West Bengal State Electricity Board & Ors Vs. Desh Bandhu Ghosh & Ors, [1985(3) SCALE-297]:

Delhi Transport Corporation Vs. D.T.C. Mazdoor Congress & Ors, (1991 Supp (1) SCC 600=1990(2).

In view of the West Bengal State Electricity Board & Ors, Vs. Desh Bandhu Ghosh & Ors. (1998) 3 SCC 116, held that any provision in the Regulation enabling the Management to terminate the services of a permanent employee by giving three months notice or pay in lieu the Constitution. Such a Regulation was held to be captive of vicious discrimination and was also held to be naked 'hire and fire' rule. This view was reiterated in Central Inland Water Transport Corporation Limited & Anr. Vs. Brojo Nath Ganguly & Anr. (1986) 3 SCC 156.

Again in view of O.P. Bhandari Vs. Indian Tourism Development Corporation Ltd. & Ors. (1986) 4 SCC 337. This court held that Rule 31(v) of the Indian Tourism Development Corporation (Conduct Discipline & Appeal) Rules 1978, which provided that the services of a permanent employee could be terminated by giving him '90 days' notice or pay in lieu thereof would be violative of Articles 14 & 16 of the Constitution of India.

Again in the view of Delhi Transport Corporation Vs. D.T.C. Mazdoor Congress & Ors. 1991 Supp(1) SCC 600 reviewed by the Constitution Bench and except then Chief Justice, Sabyasachi Mukharji, who dissented, the other 4-Judges reiterated the earlier view that the service of a confirmed employee could not be legally terminated by a simple notice.

The Management has filed written reply. In the written reply it has been stated that the workman concerned in the present dispute has filed the statement of claim based on the grounds which have already been decided on merits by the Hon'ble National Industrial Tribunal-Mumbai vide its order dated 3-5-1994 passed in the Approval Application No. NTB-64 of 1993 moved by the Management.

All the averments made in the present statement of claim have been specifically dealt with by the Presiding Officer, NIT-Mumbai and a meritorious and responded order has been passed on 3rd May, 1994. Therefore, once a dispute has already been adjudicated on merits by the NIT-Mumbai, the same can, in no manner be adjudicated again on similar grounds by CGIT-Delhi. The claim of the workman deserves to be dismissed on this ground alone.

The present claim deserves to be rejected as the same suffers from delays and laches, the same having been filed after a gap of 5 years from the date of the approval orders Passed by NIT-Mumbai.

Without prejudice to the above, it is submitted that the workman was charge sheeted for 'Absenteeism' in violation of the Model Standing Orders applicable to him. After receiving the charge sheet the workman did not give any explanation to the same and therefore an Enquiry Committee was constituted to enquire into the charges. The Enquiry Committee gave repeated reminders to the workman to appear before them but the workman did not

respond to these notices. Subsequently the Enquiry Proceedings were held ex-parte. The Enquiry Committee submitted its report holding the workman guilty of the charges. A show cause notice was given to the workman along with the copy of the Enquiry Committee's report, the receipt of which was acknowledged by him. However, he did not send a reply to the show cause notice. Thereafter the Management issued dismissal order.

It is submitted that the principle of Natural Justice was duly adhered to in carrying out the disciplinary proceedings against the workman. All opportunities were accorded to the workman from the stage of issue of charge sheet to the issue of show cause notice; however the workman chose to abstain from the disciplinary proceedings. It is therefore submitted that there are no grounds for submitting the present claim and therefore the same should be rejected.

Without prejudice to above it is submitted that the workman in the present claim has not disputed the misconduct committed by him on merits, he is challenging the procedure of enquiry and non-supply of Enquiry Committee report, which as a matter of record was supplied to him along with the show cause notice.

The workman had a bad service record, wherein he had been repeatedly committing misconducts. His past record has been clearly enumerated in the dismissal order annexed at page 33 to 35 of the list of documents, which shows that he was warned on many occasions to improve his attendance. He had been chargesheeted on two occasions and on being found guilty was given the punishment of reduction in basic pay in the years 1984 and 1990. He had been further warned to improve his service record otherwise extreme punishment of dismissal will be imposed upon him. It is reiterated that the management had time and again warned and reprimanded the workmen to improve his conduct, however he showed no improvements and failed to mend himself.

The workman was chargesheeted for unauthorized absence from duty and was asked to give explanation to the charges levelled on him within 72 hours (i.e. 3 days) from the date of receipt of the charge sheet. However, the workman after receiving the charge sheet on 3-6-1991 failed to respond with an explanation within the stipulated time period and therefore the management issued a letter constituting the Enquiry Committee. The workman never requested for any extension of time period for submitting his explanation to the charge sheet. It is purely an afterthought that the objection of constituting the Enquiry Committee without waiting for the reply to the chargesheet is being raised at this stage before this Hon'ble Tribunal.

The Management had constituted an Enquiry Committee in the year 1991 however due to the administrative reasons it could not start its proceedings and therefore the Enquiry Committee was reconstituted

under the convenorship of Mr. N.K. Lahir, which gave due notice of the reconstitution of enquiry committee and asked the workman to appear and defend his case. It is reiterated that this reconstitution of the enquiry committee was duly intimated to the workman *vide* office order No. MDA/A-22/6201 dated 8-10-1992. The workman is trying to misled the Hon'ble tribunal by raising the issue of two committees looking into the same charges, whereas it was only one committee which conducted the enquiry proceedings and submitted its report.

There has been no arbitrariness on the part of enquiry committee in conducting an *ex parte* enquiry against the workman, he was given due notices to appear on each and every date of hearing, however he never bothered to appear before the enquiry committee or even send any intimation to the enquiry committee. The enquiry committee had to post-pone its proceedings due to pre-occupation of the convenor only on two occasions *i.e.* on 26-11-1992 and 21-1-1993, whereas the workman failed to appear on three dates *i.e.* 7-1-1993, 25-1-1993 and 22-2-1993. It was only after these absence of the workman despite of having been given notice of the same, the enquiry committee proceeded *ex parte* against the workman. The workman during the entire period of enquiry proceedings *i.e.* from 26-11-1992 to 22-2-1993 did not even send a single communication/information to the enquiry committee. Therefore, the contention of any arbitrariness is totally false and *mala fide*.

It is ironical to show that the workman improved his attendance during the pendency of enquiry proceedings on one hand and on the other hand never bothered to appear before the enquiry committee even once. This show the intentional nature of the workman in not attending the enquiry proceedings and trying to cover up his lapses.

In Air India Ltd. there exists no mechanism of availing leave on verbal information; a written request has to be made in advance for availing a leave. The workman has a bad services record of habitual absenteeism. The allegation that leave cards were not available is false and denied. The leave cards are always available in the concerned departments. The workman had never moved even a single application requesting for leave for the entire period for which he was charge sheeted for unauthorized absence.

The Enquiry Committee has conducted the enquiry in due accordance with the principals of Natural Justice. The report of the Enquiry Committee is based on the records and documents placed before it as evidence. The attendance records were the vital documents based on which the Enquiry Committee arrived at its conclusion of holding the charge sheeted employee guilty of the charges leveled upon him. It is submitted that in cases of unauthorized absence, the attendance records are conclusive evidence for substantiating the charges of absenteeism and the same have been relied upon by the management. The workman was given ample opportunities

to appear and make his submissions or call any witnesses to support his case in Defence. He however chose to remain silent and now before this Hon'ble Tribunal his contentions are purely an afterthought. He is trying to malign the report of the Enquiry Committee for false and misconceived reasons.

It is reiterated that the report of the Enquiry Committee is proper and based on substantive evidence and does not suffer from any infirmity. The Enquiry proceedings have also been conducted in due accordance with the principles of Natural Justice.

The punishment awarded to the workman is proportionate to the misconduct committed by him and in light of the past record of habitual absenteeism. The workman has been warned on many occasions and has been charge sheeted twice for the same misconduct and awarded the punishment of reduction in basic pay. He was categorically warned that he should be more careful in future and repetition of such misconduct or any other misconduct will be viewed seriously which may even result in imposing the punishment of dismissal from service. It was despite these warnings and punishments that the workman continued to remain absent unauthorized and was therefore charge sheeted and subsequently dismissed from the service.

All the factors including past service record were duly considered by the management before awarding the punishment of dismissal from the services. The citation of Mohd. Ramzan's case is totally inapplicable in the present case as the copy of the Enquiry Committee's report was duly given to the workman along with the show cause notice. The contents of para 2 of the reply stated above is reiterated.

As regards Privilege Leave it is within the absolute discretion of the concerned Section Head, whether to allow Staff to avail Privilege Leave or not depending on the exigencies of work. No. Staff can avail it as a matter of right. As regards sick leave a staff is entitled 10 days sick leave in a financial year. No medical certificate is required for availing sick leave for two days. Staff is required to inform medical devisions about his sickness and at the time of resumption of resumption of duties, he must produce fitness certificate either from the Corporation's Doctor or a medical Certificate by Private Practitioner duly counter signed by Medical Officer. A Staff is entitled for 10 days Casual Leave in a financial year which is of non accumulative nature and expires at the end of financial year *i.e.* on every 31st March. Although prior permission of the Section head is not obligatory for the concerned staff but it is advisable that he/she should inform the concerned Section head as soon as possible and regularize his leave immediately on resumption of duty.

The workman was charge sheeted for misconduct as per the Model Standing Orders and a proper enquiry was

held by an Enquiry Committee, who submitted its report holding the workman guilty of the charges. Subsequently, a show cause notice was issued to the workman along with a copy of the Enquiry Committee's report. Thereafter, the dismissal order was passed by the management. No discrimination was done in the case of the workman. The principle of natural Justice was duly adhered to by the Enquiry Committee at all stages of the enquiry proceedings. The charge sheet and the dismissal order were in accordance with the Model Standing Orders applicable to the management. The case of the workman is not at all a case of discharge simplicitor.

The workman applicant has filed rejoinder and in his rejoinder he has reiterated the averment of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workman applicant that an inquiry has been held against him for his alleged 113 days absence. He has not been intimated of the dates of the inquiry and he could not appear so the inquiry has been held *ex parte* principles of natural justice have not been followed and he has not been given opportunity to produce his own evidence and to defend himself. It was submitted from the side of the workman that the management once constituted an inquiry committee but that inquiry committee did not proceed with the inquiry and another inquiry committee was constituted so there is implied waiver on the part of the management and it shall be deemed that the management relinquished all his rights regarding the conduct of disciplinary inquiry against the delinquent. The Enquiry proceedings subsequently are irregular, illegal and contrary to the principles of natural justice. The management is estopped from constituting second inquiry committee. The inordinate delay has caused grave prejudice to the applicant and it would not be possible for him to remember the facts nor would it be possible to adduce evidence to establish innocence in regard to the charges. Such delay would amount to denial of reasonable opportunity to show cause and amounts to violation of principles of natural justice. The management has not satisfactorily explained as to why first inquiry committee did not hold inquiry.

It was submitted from the side of the management that one of the members of the inquiry committee was not available so immediately a second inquiry committee has been constituted and there is no inordinate delay. The inquiry has been concluded within almost a year of the absence of the workman applicant.

The first point for consideration is whether the principles of natural justice have not been followed and

fair procedure has not been adopted. It is almost true that doctrine of natural justice is incapable of exact definition. It has been considered synonymous to fairness and compliance or non-compliance therewith is to be examined on the totality of facts and circumstances in each case. So far as the instant case is concerned the workman applicant has taken frivolous grounds that notices to him have not been served. It transpires from perusal of the documents filed by the management and stated in affidavit that the workman applicant has received letters after putting his signature regarding every date of inquiry. There is sufficient proof on the record that the workman has received letters on 07-01-1993, 25-01-1993, 25-02-1993, 12-12-1993, 18-02-1993, 11-03-1993, 15-01-1993, 11-11-1992, 08-10-1992, 06-05-1991, 22-12-1992. The workman applicant has received all these letters putting his own signature on different dates of inquiry. The management has not filed the original but from inquiry proceedings it transpires that inquiry has been held on these dates and the management has given evidence on affidavit that he has received all the notices and put his signature in token of receipt of the letters, so there is no truth in the statement of claim that no notice regarding the dates of the inquiry was served on him. It is proved beyond any-ray of doubt that the workman did receive the notice of all the dates of inquiry and put his signature in token of receipt so he cannot come to the court with unclean hands and take the plea that notices have not been served on him. The ground regarding non receipt of notice is frivolous and false one and the same has been pleaded in order to confuse the matters.

It was further submitted from the side of the management that the workman has received the findings of the inquiry committee by letter dated 30-06-1993 on 03-07-1993, and he has put his signature on the same as such findings of the inquiry report along with show cause notice has been received by him on 03-07-1993. The workman applicant has given false affidavit in respect of non receipt of the notice for personal hearing before awarding the punishment. As such principles of natural justice have been followed in the instant case by the management and all the pleadings of the workman applicant are absolutely false and contain no grain of truth.

It was also submitted by the workman applicant that there is inordinate delay in the conduct of the proceedings and so it shall be deemed that the department has waived his rights for conducting the inquiry against the workman applicant. Chargesheet to the workman applicant was served on 16/29-05-1991 and the workman received it on 03-06-1991 and the competent authority proceeded with the inquiry on 07-06-1991. The inquiry could not commence so another inquiry committee was constituted on 08-10-1992 to inquiry into the charges levelled against the workman applicant as such there is no inordinate delay in constitution of the inquiry committee as well as conduct

of the inquiry. The first inquiry committee could not function so immediately another inquiry committee was constituted. So the principle of waiver is not attracted in the instant case.

It was further submitted from the side of the management that the workman was chargesheeted for absenteeism in violation of the Model Standing Orders applicable to him. He did not give any explanation so the inquiry committee was constituted. The workman was absent despite notice on several dates so the inquiry was held ex-parte and the inquiry officer gave his findings that the charges of misconduct are proved against the workman applicant. The workman applicant was absent on 113 days. It was submitted from the side of the workman that in case he was found absent for 113 days he had privilege leave to his credit and his absence should be adjusted against his privilege leave. It is not verified from the record as how much privilege leave the workman applicant had at that time. The workman applicant has categorically admitted in his cross-examination that he filed no application for regularization of his leave. He has not applied for leave on the days he was absent. He informed his Incharge Officer but the Incharge Officer has not given any note to the department for consideration of leaves taken by the management.

It was submitted from the side of the management that the reference is barred in view of the principles of resjudicata. After completion of the inquiry proceedings an application was moved before the competent authority for permission to take action against the workman applicant. The competent court after hearing both the parties has decided the matter and he found that principles of natural justice have been followed and sufficient opportunities have been afforded to the workman applicant to participate in the proceedings of the inquiry but he deliberately avoided the inquiry. He kept away intentionally from the proceedings of the inquiry despite knowledge. In the circumstances it is settled law that the inquiry officer can proceed ex-parte. The competent authority has found observance of the principles of natural justice and subsequently approved for taking action against the workman applicant. The competent authority has also given its view regarding the nature of punishment and it has been held that punishment of dismissal is quite justified in view of the grave negligence on the part of the workman applicant.

It was further submitted from the side of the management that findings of approving authority operate as resjudicata as the matter has been decided after considering the evidence adduced by both the parties. The authority was competent for according approval so the findings of the authority will operate as resjudicata and a reference under section 10 of the ID Act is barred. It is of course true that the authority granting approval for dismissal of the workman is a competent authority but while disposing of such application u/s 33 of the ID Act the

authority concerned only with *prima facie* case and the findings under section 33 cannot operate as resjudicata to the adjudication of the reference relating to the termination/dismissal of the services of the workman any action with which the permission and approval has been granted. The function of the competent authority for granting approval or refusing the same is not of adjudicatory nature. He has to come to the conclusion *prima facie*ly. *Prima facie* case cannot be considered as a case where the misconduct of the delinquent has been proved to the hilt. The *prima facie* case is only *prima facie* case and is nothing beyond that. In reference under section 10 the entire case on its merits and de-merits after considering the entire conspectus of the circumstance is decided.

It was submitted from the side of the management that if the findings of the competent authority on the same matter is not treated as resjudicata in subsequent reference u/s 10 of the ID Act there would be duplication of proceedings and it would not be possible to decide the case expeditiously as fostered in ID Act for alleviation of the sufferings of the workman. There would be unnecessary inordinate delay in the disposal of cases. It has been held in 1978-II LLJ 10SC that the findings given while approving an application will not operate as resjudicata as the competent authority has not been discharging his duties as industrial adjudicator. He cannot give award as the application is only for approval. A ban has been imposed for taking any action against the delinquent employee after completing the inquiry to obtain approval of competent authority. If that authority approves that application, only a ban imposed on the action of the management is lifted. The competent authority may accord approval to the application or he may reject the application but that is not adjudication of the entire matter and he is not working in adjudicatory capacity so, I find no force in the argument of the Learned Counsel that the present proceedings are barred by the principles of resjudicata.

It was further submitted from the side of the workman applicant that the punishment inflicted is harsh and shocking. Such punishment cannot be sustained in view of the conduct of the absenteeism of the workman applicant. It was submitted from the side of the management that a disciplinary action can be taken under standing orders Schedule-I Industrial Employee General Rule 1946. It has been mentioned in Rule 14(e) that habitual absence without leave for more than 10 days leave would amount to misconduct. In the instant case the workman applicant has absented himself for 113 days in a very short period and his absenteeism has been proved by a fair inquiry conducted by the management. It was submitted from the side of the workman that the proceedings of the inquiry should be recorded in Hindi or in English or in the language of that state where an industrial establishment is located whichever is preferred by the applicant. The applicant during the proceedings of inquiry did not challenge

language. He has been served chargesheet in Hindi and there was no objection raised from him that the proceedings should be carried on in Hindi language. He has received and put his signature on the notices written in English and he did not object at that time so after completion of the entire proceedings he cannot challenge the language of the inquiry proceedings. He is deemed to be estopped from his own conduct. There is no force in the argument of the workman applicant. The inquiry proceedings should be completed within period of three months but it can exceed further for reasons to be recorded in writing by the department. The department tried its best to conclude the inquiry expeditiously but the workman was not turning up so notices have been sent several times so delay has been occasioned on account of the conduct of the workman applicant. I have perused the law cited by the workman applicant but they are not applicable in the present facts and circumstances of the case.

It transpires from perusal of the entire proceedings that there is only a case of absenteeism against the workman applicant. His absenteeism has been proved to the guilt but he should not be awarded extreme punishment for only his absence. The management has dismissed the workman applicant after obtaining permission of a competent authority but in the facts and circumstances of the case the punishment awarded to the workman is absolutely shocking and unjustified. In case he was absent in constrained circumstances he should be considered on leave without pay and his increment could be stopped with cumulative effect. In the instant case he has been dismissed. Dismissal in the instant case is not warranted, the workman is entitled to be reinstated without any back wages and without continuity of service.

The reference is replied thus :—

The action of the management of Air India in dismissing Shri Sumer Singh, Loader, ST No. 41018 from service with effect from 24-09-1993 is neither absolutely just nor fair and nor legal. The applicant deserves to be reinstated without continuity of service and without back wages within one month from the date of publication of the award.

Award is given accordingly.

Date : 24-11-2005.

R. N. RAI, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 2005

का. आ. 4776.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, गैस अर्थोटी आफ इंडिया लि. के प्रबंधत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/अम्ब न्यायालय, नई दिल्ली-II के पंचाट (संदर्भ संख्या: 215/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2005 को प्राप्त हुआ था।

[सं. एल-30012/133/97-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 1st December, 2005

S.O. 4776.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 215/98) of the Central Government Industrial Tribunal/Labour Court New Delhi-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the Management of M/s. Gas Authority of India Ltd. and their workman, which was received by the Central Government on 28-11-2005.

[No. L-30012/133/97-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT-II, NEW DELHI

PRESIDING OFFICER: R. N. RAI I.D. No. 215/1998

IN THE MATTER OF :—

Shri Tarkeshwar Prashad Kharwar,

S/o Shri Dwarka Prasad,

C/o Delhi Labour Union, Aggarwal Bhawan,

G.T. Road, Tis Hazari,
Delhi-110054.

VERSUS

The Management,

M/s. Gas Authority of India Limited

16, Bhikaji Cama Place,

New Delhi-110066.

AWARD

The Ministry of Labour by its letter No. L-30012/133/97-IR-C (1) Central Government Dt. 20/11-1998 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether dismissing the services of Sh. Tarkeshwar Prasad Kharwar by the Gas Authority of India is legal and justified ? If not, to what relief is the workman entitled.”

The workman applicant has filed claim statement. In the claim statement it has been stated that Shri Tarkeshwar Prasad Kharwar, hereinafter called the workman, was taken in to the employment of M/s. Gas Authority of India Ltd., hereinafter called the management on probation w.e.f 27-11-1989 as Attendant Grade-III in the scale of Rs. 400-550 (un-revised) in response to offer letter No. 2202/53/176/89 dated 16-11-89. The management vide letter No. 22/02/53 dated 7th Jan. 1991, confirmed the workman on his successful completion of probation period. The workman has unblemished and uninterrupted record of service to his credit.

That vide Memo No. 22/02/53/336 (177) dated 29th Aug. 1995, the management served a charge-sheet on the workman alleging that the workman got his name registered with the Employment Exchange at Curzon Road, New Delhi in the category of Scheduled Tribe for securing the job of attendant Grade-III. It was alleged in the said charge-sheet that the workman produced fake certificate of the Cast of Kharwar issued by Distt. Magistrate and Sub-Divisional Officer of Siwan (Bihar) to prove that he belongs to Kharwar caste with the object of continuing in the job and hence the workman contravened Rule 4(I), Rule 5(xii) and Rule 4(I) (iii) of the GAIL Employees (Conduct, Discipline & Appeal) Rules, 1986.

That the workman in reply to the charg-sheet submitted that he was never intended to take recourse to fraudulent means and Kharwar Caste to which he belongs is in the list of Scheduled Tribes of Bihar, notified by the Govt. of India. He further submitted that, however, he may be given some time to file a fresh Caste Certificate of the competent authority, showing him to belong to Kharwar Caste and Kharwar Caste as Schedule Tribe.

That vide order No. 22/02/53/336 (177) dated 6-10-95, the management decided to hold an inquiry into the charges mentioned in the above para and Shri Ramesh Bhilwaria, Dy. Manager (P&A) was appointed as Inquiry Officer and Shri K. Rajan as Presenting Officer.

That an enquiry was held, and vide memorandum No. 22/02/53/36(177) dated 29-2-96 the Inquiry Officer held that the charges levelled against workman stands proved. However, the Inquiry Officer observed the Defence taken by the delinquent employee in the said proceedings and the relevant portion of the same is reproduced below :—

(i) Certificate No. 116 dated 11-9-79

The Defence Assistant vide his written statement dated 26-12-95 stated the "the certificate was obtained by Shri Dwarka Prasad, father of Shri T.P. Kharwar from S.D.M., Siwan". This certificate is correct and true from our side. Further, vide his written statement dated 9-1-96, the defence assistant has stated, "the confirmation report send to GAIL by S.D.M., Siwan vide his letter No. 25-04(02)/93(TP)/1083/GS dated 13-9-93 in respect of this certificate is not based on facts because it does not mention anything about the record."

He further stated "In this connection it is essential to know in whose favour ST Certificate bearing IS No. 116 has been issued by the S.D.M. of Siwan".

Certificate No. 776 dated 30-8-94 :

In his written statement dated 26-12-95, the defence assistant wrongly mentioned certificate No. 776 dated 30-8-94. In his support he stated "this certificate is also correct and true and has been issued from the office of S.D.M., Siwan. The report No. 1182/C dated 20-12-94 sent by S.D.M., Siwan is not based on facts as this Certificate

No. 177 (GO) dated 30-8-94 has not been examined in the light of Certificate No. 1352/94 dated 17-6-94, on which basis Certificate No. 177 (GO) dated 30-8-94 has been issued.

(iii) Letter No. 1031 dated 8-3-95

The Defence assistant vide his written statement dated 26-12-95 stated, "this letter No. 1031 dated 8-3-95 has also been issued by SDM, Siwan and it is true and correct from our side."

That the learned Inquiry Officer while giving his finding in the Inquiry in Memo dated 29-2-96 observed as under :—

"...He (delinquent official) contended with confidence at all time that he does belong to Kharwar Community which is a recognized ST Caste in the State of Bihar. He maintained throughout the inquiry proceedings that these certificates were genuine and issued by respective authorities. The Defence Assistant Shri R.N. Prasad, who was present in the proceedings held on 19-12-95, 26-12-95 and 9-1-96 also strongly refuted the charges but could not present any convincing evidence of documents in support of his contention/arguments.

In the light of foregoing, I have come to the conclusion that Shri T.P. Kharwar has nothing concrete to support his stand and to counter or refute the charges levelled against him. Despite giving adequate opportunities to prove his innocence and support his arguments on the basis of material documents, he failed to produce anything convincing. The written brief dated 19-1-96 submitted by Shri T. P. Kharwar is irrelevant and reiterates what has been described by him earlier. It does not clearly contain point wise reply of the charges levelled against Shri T.P. Kharwar. In the absence of any documentary evidence the contentions and arguments of Shri T.P. Kharwar cannot be taken for granted.

As such the statement of reply submitted to Inquiry Officer by Shri T.P. Kharwar from time to time response to the charges levelled are not convincing and hence not acceptable. Therefore, the charges levelled against Shri Kharwar stands proved.

That on the basis of report of the Inquiry Officer dated 29-2-96, the workman was removed from service vide Order No. 22/02/53/336(177) dated 24-9-96.

That the Memorandum (Inquiry Report) dated 29-2-96 issued by the Inquiry Officer and Order of removal dated 24-9-96 issued by the Sr. Dy. Manager (P&P) are illegal, bad, unjust, malafide, amounts to victimization and unfair labour practice, factually and legally incorrect and show non-application of mind and are liable to be set aside for the following amongst other reasons.

(i) That the findings of the Inquiry are perverse in law as the Inquiry Officer has nowhere held the workman does not belong to the Kharwar caste

and/or Kharwar caste is not recognised as Scheduled Tribe in Bihar State.

(ii) The findings of the Inquiry Officer are also perverse as neither there was any material on record nor he has not given any finding to hold that the workman submitted the Caste Certificate in question with bad intention (mens rea)

(iii) The findings of the Inquiry Officer are also perverse and bad in law, a throughout in the enquiry proceedings and in the Inquiry Report he assumed as if the workman has to prove his innocence and he looked or misdirected himself that the prosecution has to stand on their legs and they have to prove the guilt of the delinquent official.

(iv) That the report of the Inquiry Officer is not based on the material on record.

(v) That the Inquiry Officer has not at all considered the material evidence such as Attestation Form in which the workman has shown himself as from Kharwar Caste, Scheduled Tribe which was duly verified by the competent officials of Bihar Government and also relied by the management.

(vi) That from the very threshold of the Inquiry, the stand of the workman was that he belongs to Kharwar Caste which is recognised as Scheduled Tribe in the State of Bihar but the Inquiry Officer failed to give due importance to this stand nor he made any attempt to look into the correctness of the assertions of the workman and without inquiring into this aspect he jumped to decide the authenticity of the Caste Certificate. He has not duly applied his mind that in case the contents of the Caste Certificate are correct then how can that certificate be treated as false and even if for the sake of argument the Certificate is treated to be irregular, whether the charge can be held to be proved against the workman.

(vii) That the Inquiry Officer presumed throughout as if the workman has to prove his innocence but he failed to appreciate that the management throughout made attempts only to investigate the regularity of Caste Certificate but have not made any attempt to verify the most vital aspect i.e. whether the workman belongs to Kharwar Caste and Kharwar Caste is recognized as Scheduled Tribe in the State of Bihar or not ? The Inquiry Officer also failed to call the necessary witnesses/ material which could have been available to him if he would have made some efforts i.e. calling competent officials from State of Bihar to testify/ verify the contents of the Certificate produced by the workman or other necessary material.

(viii) That the Inquiry Officer also overlooked one of the vital aspect i.e., the human angle i.e., this

oppressed class for whose upliftment the policy of reservation in jobs was sanctioned by the framers of the Constitution even as on today are unable to prove that $2+2=4$ i.e. despite being they belong to Scheduled Tribe (Kharwar) the Inquiry Officer due to his casual attitude or not taking his duties seriously holds charges proved as mentioned in the chargesheet.

(ix) That even otherwise the inquiry was conducted contrary to the principles of natural justice and fair play.

(x) That the learned Appointing and Disciplinary Authority has not at all applied his mind on the Inquiry Report and in a most casual manner passed the orders of removal from service of the workman.

(xi) That the order passed by the Disciplinary Authority is a non-speaking and without reasons.

(xii) That, even otherwise, the punishment imposed upon the workman is shockingly harsh and disproportionate to the alleged charge against the workman.

(xiii) That on a filmsy issue or making issue out of no issue and issuing a charge-sheet and for an eye-wash holding an enquiry and passing shockingly harsh punishment amounts to unfair labour practice as provided in Fifth Schedule of the Industrial Disputes Act, 1947. The facts are itself evident that the workman has been victimized only because he belongs to Scheduled Tribe on the basis of which he secured employment and some of the officer are ideologically traced against such schemes of the Constitution of India and his getting employment under such Scheme.

That the workman is unemployed since the date of his removal from service i.e. 24-9-1996.

That the workman made an appeal against the impugned order of removal to the Chairman of the Gas Authority of India Limited vide communication dated 24-12-96 personally as well as by registered A/D post, duly received in his office, but neither any reply was received nor any action was taken by the management on the appeal of the workman.

The Management has filed written reply. In the written reply it has been stated that Shri Tarkeshwar Prasad - S/o Late Dwarka Prasad was appointed in Gas Authority of India Ltd. (GAIL) as Attendant Grade III against the post reserved for Scheduled Tribe community in the then Scale of Pay of Rs.400-500/- (Revised Rs.1126-1526) w.e.f. 27-11-1989, for which his name was sponsored by the Sub-Regional Employment Exchange, Curzon Road, New Delhi. He was then selected on the basis of his claim to be belonging to Scheduled Tribe community and as per

registration with the Sub-Regional Employment Exchange, Curzon Road, New Delhi. He was allowed to join GAIL provisionally subject to verification of C&A and caste certificate submitted by him at the time of joining by the Competent Authority.

The copy of Caste Certificate No. 116 dated 11-9-79 (ANNEXURE "B") submitted by Shri T.P. Kharwar was issued by the Office of District Magistrate, District Siwan, Bihar and accordingly the same was forwarded for verification vide GAIL's letter No. 22/02/53/336 (177), March 19, 1993 (ANNEXURE 'A') to the District Magistrate, Siwan, Bihar enclosing a copy of the ST certificate No. 116 dated 11-9-79 (ANNEXURE 'B') submitted by Shri Tarkeshwar Prasad and the District Magistrate, Siwan, Bihar vide his letter No.25-04 (02)/93 (PP) 1083/GS dated 13-7-93 (ANNEXURE "C") informed that the caste certificate No. 116 dated 11-9-79 submitted by Shri Tarkeshwar Prasad is totally forged including signature and seal.

Shri Tarkeshwar Prasad on being informed that the certificate No. 116 dated 11-9-79 (ANNEXURE "B") was forged, requested for an opportunity to produce a fresh caste certificate issued by the competent authority.

Shri Tarkeshwar Prasad then submitted another Certificate No.776 dated 30-8-94 issued by the Sub-Divisional Officer, Siwan (Bihar) (ANNEXURE 'D'). This Certificate was also sent on 9-12-94 to the Sub-Divisional Magistrate's Office, Siwan for verification. In reply, SDM, Siwan vide their letter dated 20-12-1994 (ANNEXURE 'E') informed that the Certificate No. 776 is false and fabricated. Further, another letter dated 8-3-95 (ANNEXURE "F") purported to have been issued by SDO, Siwan was received by us along with an application of one Shri Neeraj Prasad claiming to be the brother of Shri Tarkeshwar Prasad. On verification, this letter of 8-3-95 was also found to be false as confirmed by the SDM, Siwan vide letter No.351/C dt. 24-5-95 (ANNEXURE 'G').

Adequate opportunities were therefore provided to Shri Prasad for submitting a proper Caste Certificate duly issued by the Competent Authority. However, all the certificate (viz No. 116 dated 11-9-79, No. 776 dated 30-8-94 and letter dated 8-3-95) submitted by him on verification were found to be false and fabricated.

Later the Vigilance Officer of GAIL met the District Magistrate and Sub Divisional Magistrate, Siwan, Bihar and confirmed that the Caste Certificates submitted by Shri Tarkeshwar Prasad was not issued by their offices. Report of the Vigilance Officer is annexed as ANNEXURE 'H'

Disciplinary Authority, therefore, then ordered for holding an inquiry against Shri Tarkeshwar Prasad for submitting false caste certificate in accordance with Rule 30 of the GAIL Employees' (Conduct, Discipline and Appeal) Rules as applicable to him vide Memorandum No. 22/02/53/336 (177) dated 29-8-95. The substance of

imputation of misconduct in respect of which the enquiry was proposed, the articles of charge, list of documents & witnesses were also enclosed with the above order dated 29-8-95 (ANNEXURE "I").

Shri Tarkeshwar Prasad then sought time for submitting his reply and the Disciplinary Authority allowed extension of 15 day's time to file his reply.

Since Shri Tarkeshwar Prasad denied the charges, the Disciplinary Authority then vide his order dated 6-10-95 appointed an Inquiry Officer and a Presiding Officer for conducting the inquires as per the GAIL Employees' (Conduct, Discipline & Appeal) Rules, 1986 (ANNEXURE "J").

The Inquiry was conducted as per the procedure under the conduct rules where Shri Tarkeshwar Prasad was afforded all reasonable opportunities to defend and the principles of natural justice were ensured. On conclusion of the Inquiry in which Shri Tarkeshwar Prasad fully participated, the Inquiry Officer submitted his report concluding that the charges leveled against Shri Tarkeshwar Prasad—contained in Memorandum No. 22/02/53/336(177) dated 29-8-95 stand proved. Shri Tarkeshwar Prasad was then given a copy of the Inquiry Report vide Memorandum No. 22/02/53/336(177) dated 29-2-96(ANNEXURE "K") and further given an opportunity to make any representation or submission to the Disciplinary Authority.

The Disciplinary Authority has also given a personal hearing to Shri Tarkeshwar Prasad.

The Disciplinary Authority after considering the reply submitted by Shri Tarkeshwar Prasad, his oral submission during personal hearing, the Inquiry Report, the documents produced during inquiry, evidence of the witnesses, and the gravity of the misconduct decided that ends of justice would be met if the penalty of dismissal from the services of GAIL is awarded to Sh. Tarkeshwar Prasad. However, keeping in view his young age, the Disciplinary authority took a lenient view and imposed upon him the penalty of removal from the services of GAIL. Accordingly Sh. Tarkeshwar Prasad was removed from the services of GAIL vide order No. 22/02/53/336(177) dated 24-9-96(ANNEXURE "L").

Appellate Authority after having gone through the records and procedure followed in the enquiry, found that Shri Tarkeshwar Prasad was given adequate opportunities to represent his case before the Inquiry Officer.

The workman applicant has filed rejoinder. In his rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties have been taken.

Heard arguments from both the parties and perused the papers on the record.

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Shri Tarkeshwar Prasad then submitted another Certificate No. 776 dated 30-8-94 issued by the Sub-Divisional Officer, Siwan (Bihar) (ANNEXURE 'D'). This Certificate was also sent on 9-12-94 to the Sub-Divisional Magistrate's Office, Siwan for verification. In reply, SDM, Siwan vide their letter dated 20-12-1994 (ANNEXURE 'E') informed that the Certificate No. 776 is false and fabricated. Further, another letter dated 8-3-95 (ANNEXURE "F") purported to have been issued by SDO, Siwan was received by us along with an application of one Shri Neeraj Prasad claiming to be the brother of Shri Tarkeshwar Prasad. On verification, this letter of 8-3-95 was also found to be false as confirmed by the SDM, Siwan vide letter No.351/C dt. 24-5-95 (ANNEXURE 'G').

Adequate opportunities were therefore provided to Shri Prasad for submitting a proper Caste Certificate duly issued by the Competent Authority. However, all the certificate (viz No. 116 dated 11-9-79, No. 776 dated 30-8-94 and letter dated 8-3-95) submitted by him on verification were found to be false and fabricated.

Later the Vigilance Officer of GAIL met the District Magistrate and Sub Divisional Magistrate, Siwan, Bihar and confirmed that the Caste Certificates submitted by Shri Tarkeshwar Prasad was not issued by their offices. Report of the Vigilance Officer is annexed as ANNEXURE 'H'

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imputation of misconduct in respect of which the enquiry was proposed, the articles of charge, list of documents & witnesses were also enclosed with the above order dated 29-8-95 (ANNEXURE "I").

Shri Tarkeshwar Prasad then sought time for submitting his reply and the Disciplinary Authority allowed extension of 13 day's time to file his reply.

Since Shri Tarkeshwar Prasad denied the charges, the Disciplinary Authority then vide his order dated 6-10-95 appointed an Inquiry Officer and a Presiding Officer for conducting the inquiries as per the GAIL Employees' (Conduct, Discipline & Appeal) Rules, 1986 (ANNEXURE "J").

The Inquiry was conducted as per the procedure under the conduct rules where Shri Tarkeshwar Prasad was afforded all reasonable opportunities to defend and the principles of natural justice were ensured. On conclusion of the Inquiry in which Shri Tarkeshwar Prasad fully participated, the Inquiry Officer submitted his report concluding that the charges leveled against Shri Tarkeshwar Prasad contained in Memorandum No. 22/02/53/336 (177) dated 29-8-95 stand proved. Shri Tarkeshwar Prasad was then given a copy of the Inquiry Report vide Memorandum No. 22/02/53/336(177) dated 29-2-96 (ANNEXURE "K") and further given an opportunity to make any representation or submission to the Disciplinary Authority.

The Disciplinary Authority has also given a personal hearing to Shri Tarkeshwar Prasad.

The Disciplinary Authority after considering the reply submitted by Shri Tarkeshwar Prasad, his oral submission during personal hearing, the Inquiry Report, the documents produced during inquiry, evidence of the witnesses, and the gravity of the misconduct decided that ends of justice would be met if the penalty of dismissal from the services of GAIL is awarded to Sh. Tarkeshwar Prasad. However, keeping in view his young age, the Disciplinary authority took a lenient view and imposed upon him the penalty of removal from the services of GAIL. Accordingly Sh. Tarkeshwar Prasad was removed from the services of GAIL vide order No. 22/02/53/336(177) dated 24-9-96 (ANNEXURE "L").

Appellate Authority after having gone through the records and procedure followed in the enquiry, found that Shri Tarkeshwar Prasad was given adequate opportunities to represent his case before the Inquiry Officer.

The workman applicant has filed rejoinder. In his rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties have been taken.

Heard arguments from both the parties and perused the papers on the record.

It was submitted from the side of the workman applicant that the management served a chargesheet on the workman applicant alleging that the workman got his name registered with the Employment Exchange at Curzon Road, New Delhi in the category of Scheduled Tribe for securing the job of Attendant, Grade-III. It was alleged in the said chargesheet that the workman produced his fake certificate of the caste of Kharwar issued by the District Magistrate and Sub-Divisional Magistrate of Siwan (Bihar) to prove that he belongs to Kharwar caste to continue in the job and hence the workman contravened rule 4 (1), rule 5 (12) of the GAIL Employees (Conduct Discipline and Appeal) Rules, 1986.

It was further submitted from the side of the workman that he belongs to Kharwar caste and Kharwar caste is a Schedule Tribe. There is notification regarding the same. It was submitted from the side of the management that when they came to know about the fake certificate they sent letters to DM & SDM, Siwan (Bihar). The DM and SDM Siwan (Bihar) have reported that no certificate of Schedule Tribe has been issued by them and no certificate has been issued on the number which was supplied by the workman applicant. The management sent vigilance officer to the SDM & DM, Siwan (Bihar) and confirmed that caste certificate submitted by the workman Shri Tarkeshwar Prasad was not issued by their office.

It was submitted from the side of the management that proper verifications have been made from the issuing authorities and they have categorically denied that the certificates presented by the workman applicant were issued by them. The vigilance officer has also reported after inquiry that the caste certificates were false and not issued by the office of SDM & DM Siwan (Bihar).

It was further submitted from the side of the workman that the principles of natural justice have not been followed. The workman has not been given proper opportunity to cross examine the witnesses and to afford evidence in defence. The principles of natural justice are incapable of exact definition. These principles vary from case to case. In the instant case documents are significant evidence. Oral evidence and examination of the witnesses is not very much material. The workman has not so far been able to file the correct certificate regarding his caste. The certificates which were filed by him were found false, forged and fabricated on verification and on inquiry by the vigilance officer. Principles of natural justice in the circumstances are not attracted for cross examination of the witnesses. The workman applicant should have filed authentic certificate of his caste but he has not succeeded to do so even in this Tribunal. He has obtained service on presenting forged and fabricated caste certificate so the Bank did not think it proper to retain him in service and he was dismissed from service.

It was further submitted that respondents did not lodge any FIR for forgery and mis-representation. It is not found necessary by the Bank so the Bank did not do so. The workman applicant cannot take benefit of non-lodging of FIR.

The certificates which have been supplied by the workman have been found forged but Kharwar caste is a Scheduled Tribe, so it casts doubt on the entire case. The workman has not been able to prove that the certificate filed at the time of his appointment was genuine one. The management has verified it from several sources. The fact cannot be denied that Kharwar caste is a Scheduled Tribe. My attention was drawn to [The Constitution (ST) Order 1950]. According to this notification Kharwar caste is a Schedule Tribe in Andhra Pradesh State. According to the notification of 1991 Bihar Gazette extraordinary dated 20th September, 1991 Kharwar caste is a Schedule Tribe for Siwan and Rohtas district of Bihar. According to the notification of the Government of India, Ministry of Home Affairs SCs and STs list modification order 1956 Kharwar Caste is a Schedule Tribe throughout the State. So according to the notification of 1956 Kharwar caste throughout Bihar is a Schedule Tribe. It is correct that the workman has not filed correct caste certificate and the certificates filed by him were found not genuine after proper inquiry by the management but none the less the workman is a Schedule Tribe candidate in view of the notification of 1956 by Government of India, Ministry of Home Affairs. The workman did not produce these papers before the management so the management has held the certificates filed by him forged and fabricated. The workman in view of order of 1956 belongs to Schedule Tribe. The workman was negligent in not placing before the respondents these notifications of the Government of India so it is held that the workman belongs to Schedule Tribe. Since there is negligence on the part of the workman so he is not entitled to get any wages but he is entitled to be reinstated in service with continuity of service but without backwages.

The reference is replied thus :—

The dismissal of the services of Shri Tarkeshwar Prasad Kharwar by the Gas Authority of India is not absolutely legal and justified. The workman applicant is entitled to be reinstated in service from the date of his dismissal with continuity of service but without back wages. The management should reinstate the workman applicant within two months from the publication of the award.

The award is given accordingly.

Date : 22-11-2005.

R. N. RAI, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 2005

का.आ. 4777.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एवं पोर्ट अथोरिटी ऑफ इंडिया/एअरगो ट्रेवल एवं कार्गो प्राइवेट लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रिम न्यायालय, नई दिल्ली-II के पंचाट (संदर्भ संख्या 48/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2005 को प्राप्त हुआ था।

[सं. एल-11012/40/2001-आई आर (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 1st December, 2005

S.O. 4777.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 48/2001) of the Central Government Industrial Tribunal/Labour Court, New Delhi-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Airport Authority of India/Airogo Travel & Cargo Pvt. Ltd. and their workman, which was received by the Central Government on 28-11-2005.

[No. L-11012/40/2001-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, RAJENDRA BHAWAN, GROUND FLOOR, RAJENDRA PLACE, NEW DELHI

PRESIDING OFFICER: R. N. RAI. ID No. 48/2001

IN THE MATTER OF :—

Shri Jaiprakash,
S/o. Shri Braham Singh,
Supervisor
Airport Authority of India,
R/o. H.No. 387, V & PO Mitrao,
New Delhi-43.

VERSUS

1. Airport Authority of India,
Indira Gandhi International Airport,
New Delhi.
2. Airogo Travel & Cargo Pvt. Limited,
Public Amenities Building,
Air Cargo Terminal,
IGI Airport, New Delhi.

AWARD

The Ministry of Labour by its letter No. L-11012/40/2001-IR (C-I) Central Government Dt. 10-7-2001 has referred the following point for adjudication.

The point runs as hereunder:—

“Whether the action of the General Manager Cargo, AA1, IGI Airport, New Delhi and G.M. Airgo Complex, IGI Airport, New Delhi in not allowing Shir Jaiprakash, Supervisor to enter the premises/ workplace at Cargo Complex, IGI Airport, New Delhi w.e.f. 04-08-1999 is just, fair and legal? If not, to what relief is the said workman entitled and from what date?”

The workman has filed claim statement and the management has filed reply to the same but thereafter the workman has not turned up. Notice has been sent to both the parties. The management has turned up but the workman has not turned up. It transpires from perusal of the order sheet that the workman was not present from 05-03-2003 till date. The management has turned up all along. The claim statement of the workman is not supported by any rejoinder or affidavit. Last opportunity was given and thereafter opportunity to file rejoinder was closed.

No dispute award is given.

Date: 21-11-2005

R.N. RAI, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 2005

का.आ. 4778.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन एअर लाइंस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/त्रिम न्यायालय, नई दिल्ली-II के पंचाट (संदर्भ संख्या 111/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-11-2005 को प्राप्त हुआ था।

[सं. एल-11012/6/82. डी-II(बी)-आई आर (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 1st December, 2005

S.O. 4778.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 111/99) of the Central Government Industrial Tribunal/Labour Court, New Delhi-II now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Airlines and their workman, which was received by the Central Government on 28-11-2005.

[No. L-11012/6/82-D-II(B)-IR (C-I)]

S.S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Presiding Officer : R. N. RAI.

ID No. 111/1999

IN THE MATTER OF :—

The General Secretary,
Delhi Mazdoor Sangh,
100, Tilak Nagar Chowk,
New Delhi.

VERSUS

The Regional Director,
Indian Airlines, Thapar House,
124, Janpath, New Delhi-110001.

AWARD

The Ministry of Labour by its letter No. L-11012/6/82-D-II(B)-IR (C-I) Central Government Dt. 05-04-1999 has referred the following point for adjudication.

The point runs as herelunder:—

“Whether the removal of 19 workmen from services w.e.f. 13th July, 1982 by the management of Indian Airlines is legal and just?

If not so for what relief the workmen are entitled and from what date?”

The workmen applicants have filed claim statement. In the statement of claim it has been stated that the workmen were appointed during 1980 as electricians, carpenters, pump operators, plumbers and helpers etc. as casual labour and the direct control and supervision of the management, through Shri R.B. Singh, the Care Taker of the management to work at Indian Airlines and Air India Staff Housing Colony, Vasant Vihar, New Delhi for the purposes of sanitary, water supply and sewage work. These workmen were paid by the management directly by obtaining individual vouchers from each workman till September, 1981. The attendance has been duly marked by Shri R.B. Singh, Harbans Singh, Shiv Kumar or Ranjit Singh all are officials of the Indian Airlines. Even the payment/hand receipt has been duly signed by these persons.

That the workmen discharged duties with utmost devotion and sincerity and to the utter satisfaction of the management. That however the management changed the mode of payment of wages to the workmen herein from October, 1981 onwards. The management selected four workmen as petty contractors, each contractor employing 3-4 workmen as contract labour. The management paid these four workmen the total amount of wages payable to all the workmen who in turn were directed to distribute the same among the workmen. The management replaced these petty contractors by selecting other workmen as petty contractor and the earlier petty contractors were treated as workmen. This action of the respondent was mainly to deprive the workmen of the equal wages for equal work, status and designation and other benefits of the service.

It is relevant to submit here that all the workmen including the so called petty contractors continued to discharge their duties as usual and the change of mode of payment had no effect on the proper discharge of work by the workmen. It is further submitted that the description of these four persons as petty contractors was without any proper reason nor they were appointed through a tender advertised or accepted. The management converted the casual labour into contract labour when the nature of the work was same, the work discharged by the workmen was also same and the fixed wages paid to the workmen was also the same. The change of casual labour into contract labour was just overcome the provisions of law and the various judgements of the courts of law where the provisions of law and the judgements of the courts of law held that the casual labours are entitled for equal pay as paid to

their counterpart regular employees who are discharging the similar/identical duties. The management employs a large number of regular employees who are discharging similar duties as discharged by the workmen herein.

That during the continuation of their services the workmen from time to time requested the management to pay them equal pay for equal work. The workmen were being paid at the rate of Rs. 18/-, Rs. 13/- and Rs. 9.25 paise per day as detailed in the particulars of the workmen. The request of the workmen to pay them equal wages was not considered by the management.

That the wages paid to the workmen were far less than the wages paid to the regular employees of the management who are also discharging the similar duties. The workmen made various representations to the management and requested their immediate officer to pay wages at the same rate as was being paid to the other employees of the Indian Airlines, also issue them appointment letters, leave cards and other amenities and benefits provided to the other employees.

That however, the management did not take any action on the legitimate grievances of the workmen. In these circumstances during April, 1982 the workmen agitated and claimed equal wages with arrears as was paid to the other employees of the management in the same category of employees. When the workmen failed to get proper and positive response from the management, the workmen through their Union addressed a letter dated 30-06-1982 to the Labour Commissioner requesting him to intervene in the matter and look into the grievances of the workmen mentioned in the letter and also directing the management to make payment of wages for the months of May and June, 1982.

That on the complaint of the Delhi Mazdoor Sangh the Assistant Labour Commissioner, Okhla, New Delhi sent one Labour Inspector on 01-07-1982 to the Inquiry Office of the management at Vasant Vihar. The Inspector visited the office of the management and directed Shri R.B. Singh the officer concerned to appear before the ALC on 02-07-1982 and tried to explain that the workmen were employed through petty contractors. The ALC directed the said Shri R.B. Singh to produce the documents in support to his statement on 05-07-1982. On 05-07-1982 Shri R.B. Singh failed to appear before the ALC as a result of which the case was adjourned to 13-07-1982. On 13-07-1982 also Shri R.B. Singh did not appear before the Labour Officer. On the other hand on 13-07-1982 the workmen reached their place of work at Inquiry Office of Vasant Vihar to perform their daily duties. However, they found that the Inquiry Office was closed. The workmen then approached the residents of the colony and accompanied them to the office of Shri R.B. Singh. Shri R.B. Singh informed the workmen that their services had been terminated. The workmen questioned the verbal

orders and told the officer that there is no written order terminating the services nor any benefits of Section 25(F) of the ID Act have been paid. However, the said Shri R.B. Singh refused to hear their grievances. In these circumstances the workmen once again approached the Labour Commissioner challenging the illegal termination order.

That in the mean time the workmen herein approached the Labour Court under Section 33 C (2) of the ID Act, 1947 in 1982. The Labour Court after consideration of the application of the workmen after hearing both the parties and on perusing the evidence allowed the application of the workmen directing the management to make payment to the workmen. The Learned Presiding Officer held that the workmen were entitled to the same rates of wages and similar relief as other employees discharging similar duties regularly engaged by the management and there is no scope for the differential payment to the workmen. The award of the Labour Court is filed herewith and marked as Annexure-2 to this statement. The aforesaid award was confirmed by the High Court on a writ petition by the management.

That the claimants challenged their illegal termination before the Labour Commissioner. The ALC tried to conciliate between the workmen and the management. However, on failure, the ALC reported the failure of the conciliation to the Government. The Government however refused to refer the dispute to the Industrial Tribunal for adjudication on the ground that the workmen were not employees of the management and there is no employer-employee relationship.

That the workmen challenged the refusal of reference before the Hon'ble High Court. The Hon'ble High Court *vide* its judgement dated 25-01-1999 directed the Government to refer the dispute to the Industrial Tribunal. In these circumstances the Government has referred the dispute to the Industrial Tribunal and hence this statement of claim.

That it is if further submitted that the workmen have worked as casual labour for more than two years. The workmen were initially employed as casual labour and they continued to discharge their duties as casual labour till their illegal termination. The management, however as already submitted converted the casual labour into contract labour by selecting four workmen as petty contractor with 3-4 workmen under each of them. The workmen have discharged their duties directly under Shri R.B. Singh who was the official of the management from the date of their initial appointment till the date of their illegal termination. The workmen herein are filing copies of various documents including vouchers to show that they are casual labour directly working under the management, the statement of Jr. Engineer of the management who verified and signed the statement

containing the particulars of the workmen including the total period of service and the wages payable to them and the documents showing many of the workmen as petty contractors, copies of the hand receipts directly paid to the workmen by the management etc. are filed herewith and marked as Annexure-3 (Colly) to this statement of claim.

That the management agitated by the legitimate grievances of the workmen who claimed equal pay had taken law into its hands and illegally terminated the services of the workmen by oral termination order so as to avoid payment of the legitimate dues of the workmen. The services of the workmen agitated for equal pay as was being paid to the regular employees discharging the similar duties. The management instead of conceding to the just and legitimate claims of the workmen has illegally and arbitrarily terminated their services.

That it is also relevant to submit here that the management has reinstated and regularized one Shri Pawan Kumar Saxena who was also one of the workmen working with claimants though he was also a party in the proceedings for equal wages. However, the claimants have not been reinstated though were also similarly situated. The claimants are also entitled to be reinstated and regularized in same manner as was done in the case of Shri Pawan Kumar Saxena with effect from their illegal termination with all consequential benefits.

The management has filed written statement. In the written statement it is stated that the present claim is bad on account of non-existence of any employer-employee relationship between the claimants and the management. That the present claimants were the employees of the contractors who were carrying out petty repair/construction work of civil or electrical nature of Indian Airlines and Air India Housing Colony at Vasant Vihar, New Delhi. That the relief claimed is not maintainable in said circumstances. The claimants were employees of the contractor who were carrying out petty civil/electrical works in Air India Housing Society, Vasant Vihar, New Delhi. The claim is bad and therefore, deserves outright dismissal.

It is submitted that the claimants were never appointed by the management in any capacity. There never existed any relationship of employer and employee between the claimants and the management. The claimants may be put to strict proof of making such false averments.

That the work of repair and maintenance was being carried out by petty contractors on job contract basis. It is submitted that selection of the workers for carrying out the job contract and making payments was the sole discretion of the petty contractor. It is submitted that the management used to make its payment directly to the contractor for the job contract carried out by him.

It is reiterated that the management had never interfered in the internal affairs of the contract labour and the contractor. It is submitted that the management had never violated any provision of law. It is submitted that no comparison/equality can be drawn between the contract labour and regular workforce.

It is reiterated that the present industrial dispute bears no connection nor is of any relevance with the subject order passed by the Hon'ble Court under Section 33 (C) (2) of the ID Act.

It is submitted that the management had engaged the services of petty contractors for carrying out necessary works and there has been no interaction between the claimants and the management in any capacity as employer-employee. The claimants may be put to strict proof on the averments made in the subject para and the documents annexed as Annexure-3 (colly) with the statement of claim.

It is submitted that the documents filed by the claimants are not in any manner supportive of their false claims and therefore deserves to be rejected. It is reiterated that there has been no illegality or victimization of the claimants. The said allegation is bad and malafide. It is submitted that the management never terminated the services of any of the claimants. It is reiterated that the claimants were not the employees of the management.

That none of the claimants were reinstated by the management on any account whatsoever. The claimants be put to strict proof that one Mr. Pawan Kumar was reinstated and regularized in pursuance to his working as contract labour at the site of Indian Airlines and Air India Housing Colony. The claimants be directed to produce the appointment letter of Mr. Pawan Kumar to substantiate their allegation.

The workmen applicants have filed rejoinder. In their rejoinder they have reiterated the averments of their claim statement and have denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

The reference is for 19 workmen but only six workmen viz., Harish Kumar, Dhanbir Singh, Naresh Kumar, Mukesh Chand, Mast Ram Sharma and Shri Desh Raj have filed claim statement. The rest of the 13 workmen have not filed any claim statement.

It was submitted from the side of the management that these workmen were employed by the management through their Executive Engineer, Shri R.B. Singh and G.R.S. Murthy as the said officers were at that time, the main Incharge of the workmen. The workmen performed the job of Electricians, Carpenter, Pump Operators,

Plumbers and Helpers etc. to work at Indian Airlines and Air India Staff Housing Colony @ Rs. 18, Rs. 13 per day to the Electricians, Carpenters, Pump Operators etc. Rs. 9.25 to the Helpers from January, 1980 to September, 1981. The payments of salary were made by the management on cash vouchers from January, 1980, to September, 1981. In October, 1981 the management changed the mode of payment of salary to the workmen as at that time various judgments of High Courts and Supreme Court came regarding regularization of the workmen who were continuously working for a long time and the management just to deprive the workmen of their legal benefits changed the mode of payments through some workman whom they called petty contractors but these workmen were periodically changed as petty contractors. All the workmen were shown by the management as working on the post of petty contractor. The workmen raised complaints before the Labour Commissioner but their case was not referred so the workmen filed a Writ Petition before the Hon'ble High Court of Delhi and the Hon'ble High Court directed for reference and adjudication. It was further submitted that the management denied the claim of the workmen on the basis that the workmen are petty contractors and are not employees of the management.

It was further submitted that the workmen have been working from January, 1980 up to September, 1981. They have got salary from the management directly. The management has not disputed the fact of the work of the workmen from January, 1980, till September, 1981. The management has admitted that the workmen have worked for two years continuously in the management. All the six workmen have filed affidavit in support of their case, two have been cross-examined by the management. It has been held in 2002 (9) SCC 690 that if the workmen concerned were paid wages from the employer and work was taken from the employer from the workmen then the workmen are the employees of the management. The workmen in the instant case were paid directly by the management. The workmen have been employed by licenced contractor in view of SLR 1987 (5) page 84. Since they have not been employed by licenced contractors so they will become the workmen of the employers.

It was further submitted from the side of the management that MW1 has not denied the salary issued by the Indian Airlines from 1980 to September, 1981. MW1 has further admitted in his cross examination that in 1980 they have invited tender but they have failed to get any contractor from August, 1982. They have awarded work on contract basis. The management witness MW2 has further admitted that Shri R.B. Singh was Caretaker of the management and he has not appointed the workmen as petty contractors. There is no paper on the record that the workmen have been

employed by any contractor. The salary slips have been issued to the workmen by the Indian Airlines. There is no contract agreement filed on the record by the management.

It was further submitted from the side of the management that Rules of CPWD are followed by the management and according to para 1.10 petty contractors for minor additions and alterations to residential and non-residential buildings up to Rs.500 and Rs. 10,000 may be got done by petty contractors as these are petty and irregular works.

It was further submitted from the side of the management that no contractor was available for minor repair and other work of irregular nature so these workmen were given separately the contract of petty contractors and they performed their duties as petty workers and are not the employees of the management. The workmen have filed certain papers regarding their work. Photocopy of the certificates shows that Shri Harish Kumar has worked as Petty contractor for maintenance job, carpentry and masonry work from 01-12-1980 to 28-02-1981. Shri Dhanbir Singh has also filed the same certificate. The management has filed exhibit MW1/7. This paper indicates that annual maintenance and repairs including operation of Pumps and IA and AI Housing Colony at Basant Vihar, New Delhi has been granted to Lt. Colonel Shri S.C. Verma from 31st August onwards.

It was further submitted from the side of the management that the work of maintenance and repairs involves a sum of Rs.7,000/- per month. So regular appointments cannot be made as carpenter, mason, plumbers and electricians are required for discharge of the work. The management has also filed exhibit MW1/9 and a contract has been awarded to R.K. Consultants for Civil Sanitary, Electrical annual maintenance works. These papers also shows that the work is not of regular nature so contractors are engaged on lumpsum basis per month. Exhibit MW1/10 is also an agreement with M/s. Janardan Mahapatra and annual maintenance of Civil Sanitary and Electrical works have been assigned to him. These papers no doubt establish the fact that the work is regarding maintenance and different artisans are required for the work of the maintenance and repairs.

It was submitted from the side of the management that they cannot engage full time electricians, artisans, masons, carpenters and pump operators so those miscellaneous work is carried out through contract. These are petty workers and they are discharged by the contractors. The management has made payments to Dhanbir Singh for his work from 15-02-1982 to 28-02-1982, 01-03-1982 to 15-03-1982 and 16-03-1982 to 31-03-1982. It was submitted from the side of the management that Shri Dhanbir Singh was made payment for his work for this

period. Payment of Mukesh Chand was also made for such type of work. It was further submitted from the side of the management that payment to Mukesh Chand was made for labour services rendered for operations of pumps around the clock including operation of valves to the quarter and actual labour charges from 15-12-1981 to 31-12-1981 have been paid. Shri Mukesh Chand has been paid for labour service for operation of pumps from 15-4-1982 to 30-04-1982. Shri Mukesh Chand has been made payment for his labour service from 01-12-1981 to 15-12-1981. These payments have been made by the management no doubt but these payments have been for a particular work. Shri Dhanbir Singh has been paid for sanitary work, supply services and sewage from 15-02-1982 to 28-02-1982 and he has been paid Rs. 745 so all the payments have been made to this workman for supply service sewage provided for pump operation for the work of plumber and for the work of helper. The workman has worked as a helper and he has worked as a plumber. The work of mason, artisan, plumber, sanitation work are not regular nature of work and the management has spent Rs. 7,000 per month in 1982 so it is not possible for the management to engage 19 workman for maintenance and repair works. I have perused the entire records and it becomes quite obvious that Shri Hariash Kumar has worked for 43 days in 1980 and 47 days in 1981. Shri Dhanbir Singh has worked for 50 days in 1980 and 51 days in 1981 and Shri Mukesh Chand has worked for 50 days in 1980 and 51 days in 1981 and he has worked for six and half months in 1982. Shri Mast Ram has worked for 74 days in 1981. The workman applicants have filed vouchers through which they have been given payment. They have not filed even photocopy to show that they have worked for 240 days either in 1980 or in 1981 or in 1982. For Section 25F of the ID Act it is mandatory that the workmen should have worked for 240 days in one year and it is settled law that they cannot prove it by their affidavit. None of the workmen have filed any paper to show that they have worked for more than 240 days in any of the year either in 1980, 1981 and 1982. In 1980 no workman has worked for more than 150 days. In 1981 also no salary voucher has been filed to show that they have worked for more than 150 days and in 1982 also the workmen have not filed any salary vouchers even photocopy to prove the fact that they have worked for 240 days in 1981 to 1982. These workmen are not petty contractors but they have been given payment on vouchers for services rendered by them periodically for maintenance, repairs, pump operation and sanitation.

It was further submitted from the side of the management that the work given to the workmen is need based and every workman has performed separate nature

of work so it becomes quite obvious from the photocopy of the salary vouchers filed by the workman that they have not completed 240 days in any of the year either in 1980, 1981 or in 1982. In (2002) 9 SC cases is not applicable in the instant case as workmen have not discharged 240 days work in a year. In 1998 (2) SC the Hon'ble Apex Court has held that if the workmen have worked continuously and interruptedly for a long time even though the contractor they should be absorbed. The workmen have not worked through any contractor and they have not completed 240 days work in any of the years so this judgment is not applicable. AIR 1999 SC page 1160 is also regarding contract work but the case of these workmen is that they have been directly engaged by the management.

From perusal of the payment vouchers it transpires that the workmen have been paid as labour charges for particular period of 15 days or 30 days. They have not been made payment regularly. I have perused the entire voucher slips issued by the management regarding the payment of the workmen but it is not for 240 days either in 1980 or in 1981 or in 1982. It was further submitted from the side of the management that the management witness has admitted that the above petty contractors had worked for more than two years and they did not have any work with management directly. They were engaged as petty contractors. The management witness has admitted that the workman has worked as petty contractors and from salary vouchers also it transpires that the workmen have been paid labour charges for the work of pump operation, sanitation, repairs and other such job of work. These are petty contractors and in view of para 1.10 of the manual of CPWD petty work can be taken from the petty contractor so all these workmen are need based. The management has not at any point of time given more than Rs. 7,000/- per month for the entire work so it cannot be said that there is regular nature of work and all the 19 workmen can be engaged for repairs and maintenance and sanitation and pump operation and plumber work. The workmen have not proved that they have been paid payment by the management for 240 days either in the year 1980, 1981 or in 1982 so they have not proved their claim statement. The law cited by the workmen is not applicable in the present facts and circumstances of the case.

It was submitted from the side of the management that they have to engage workmen for periodical repairs of houses, pipelines, sanitation and the work of plumber. The work of repairs, maintenance and plumber is not a work of regular nature. It is periodical work. Whenever water pipelines are disturbed or that requires repair the workmen are engaged so the entire work at their disposal is of periodical nature and regular workmen cannot be appointed for the same. The Government has not also created any regular post till now. It is

prerogative of the Government to create posts. Posts cannot be created by Courts. The nature of work is not perennial or regular. It is occasional so there is no question of regularization of any workmen.

The reference is replied thus:—

The removal of 19 workmen from services w.e.f. 13th July, 1982 by the management of Indian Airlines is legal and just. The workmen are not entitled to get any relief as prayed for.

Award is given accordingly.

Dated : 22-11-2005.

R.N. RAI, Presiding Officer

नई दिल्ली, 1 दिसम्बर, 2005

का. आ. 4779.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेदुनगड़ी बैंक लिमिटेड के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, कोझीकोड़े, केरल स्टेट के धर्माट (संदर्भ संख्या आई डी-3/03) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-11-2005 को प्राप्त हुआ था।

[सं. एल-12012/11/2003/आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 1st December, 2005

S.O. 4779.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 3/03) of the Labour Court Kozhikode, Kerala state now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Nedungadi Bank Limited and their workman, which was received by the Central Government on 30-11-2005

[No. L-12012/11/2003 -IR (B.I)

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE LABOUR COURT, KOZHIKODE KERALA STATE

Dated this the 2nd day of November, 2005.

PRESENT

SHEK K. BALASUBRAMANIAN, B.COM., LL.B.,
Presiding Officer.

I.D.(C) No.3/03

BETWEEN :—

The Chairman,

Nedungadi Bank Limited
Head Office,
Byepass Road,
Calicut-16, Kerala.

.....Management

AND

M. Valsalan,
Koottukulam Thazhe House,
Eranhipalam P.O.,
Civil Station,
Calicut-20.

.....Workman

REPRESENTATIONS:

Sri C.K. Madhusoodanan, Advocate, Calicut

.....For Management

Sri M. Asokan, Advocate, Calicut

.....For Workman

AWARD

The worker while working as a sub-staff in the Mandya Branch of the management Nedungadi Bank Limited was charge sheeted for misappropriating the funds of the Bank to the tune of Rs. 5,81,090 by falsification of vouchers and registers of the bank and making fictitious entries in the accounts. In the domestic enquiry held, the worker was found guilty of the charges framed against him. Accepting the finding of guilt, the disciplinary authority dismissed the worker from service by way of punishment. Thereafter the industrial dispute raised by the worker was referred* to this Court by the Government of India, Ministry of Labour as per reference order No.L-12012/11/2003-IR (B-I) dated 14-2-2003 u/s 10 (1) and (2 A) to adjudicate the legality, proportionality and justifiability of the action of the management in awarding the punishment of dismissal of service and the reliefs liable to be granted.

2. Both sides entered appearance through counsel of their choice and filed their respective statements. The worker, in his statement mainly attacked the legality and fairness of the domestic enquiry on several grounds including violation of principles of natural justice and attributing bias on the Enquiry Officer. He further contended that he was made a scape-goat to save the skin of Superior Officers and the punishment imposed is highly excessive and disproportionate to the gravity of the charges proved. On the other hand the management supported their action and the legality and fairness of the domestic enquiry held against the worker. According to the management the worker committed grave misconduct by making fictitious and false entries in the Bank registers and swindling Bank funds of more than 5 lakhs. It is also stated that the punishment imposed is proportionate with the misdemeanour committed.

3. The question as to whether the domestic enquiry was fairly and properly held and whether the same is vitiated on any grounds was adjudicated as a preliminary point. Both sides adduced evidence. After a detailed inquiry this Court held that there is no procedural flaw or violation of

principles of natural justice in conducting the domestic enquiry whereas there is no acceptable evidence to sustain the charges. So the domestic enquiry was set aside granting a further opportunity to sustain the charges. Thereafter 3 witnesses as MWs 2 to 5 were examined on the management side and the worker got himself examined as WW1.

4. The points for considerations are :

- (1) Whether the management has succeeded in proving the charges against the worker?
- (2) Whether the punishment imposed on the worker is excessive or not?

5. Point No. 1.— The gist of the charges is that the worker made fictitious and false entries in the clearing registers unsupported by instruments, withdrew credits from the concerned accounts by obtaining signed cheque leafs and withdrawal forms of customers, falsified the accounts to tally the difference and by such wilful and deliberate action, misappropriated the funds of the Bank to the tune of Rs. 5,81,090/- MW2, the accountant who was working in the Mandya Branch during the relevant period deposed about the details of fraud and dishonesty committed by the worker and about modes operandi. According to the witness there was shortage in the staff strength in the branch during 2000-2002, that to clear work arrears the bank used to avail the service of sub-staffs, that exploiting this situation worker defrauded the bank by making false credit entries in the clearing register without supporting cheques or withdrawals and making corresponding fictitious entries in the party's accounts and withdrew money using the signed cheques/withdrawal forms of the customers. MW2 further identified the hand-writings of the entries of the worker in clearing day book. MW3 is the then Branch Manager. This witness also stated that he noticed irregularities and manipulations in the bank books and identified the handwriting of the worker in Ext. M 16 accounts as was familiar with it. As against the evidence of management witnesses, the worker gave evidence denying the commission of charges and stating that the mischiefs were done by MW2 and MW3 with the connivance of their Superior Officers.

6. There is not much of dispute that there were manipulations and alterations of entries in the clearing register as evidenced by Ext. M16. It was further brought out and as admitted by the worker that many of the entries are in the hand of the worker who was formerly working as a clerk in the management bank for about a decade and conversant with clerical works. Even according to the worker he had noticed some irregularities, timely informed the same to the then manager who gave a hollow promise that he will manage everything and take up the responsibility and that he made the false entries reposing confidence on the words of the Manager. This admission sufficiently establishes his conduct and motive.

Interestingly MW3, who according to the worker was the villain of the scene was not the Branch Manager during the relevant time. The worker during the enquiry of preliminary point had taken a totally inconsistent stand pretending total ignorance about the authorship of any of the fraudulent entries. It was argued on behalf of the worker that it is not possible to carry these manipulations without the connivance of other staff and there was no justification in pinning the entire liability on the worker alone.

7. Fraud is something which is often committed in secrecy. In some cases fraud is liable to be proved only by indirect and circumstantial evidence. Even assuming that the worker is only a joint tortfeasor, that will not in anyway water down the gravity of his misdemeanour. There is also no evidence to establish the involvement of others. So the argument does not hold good. Shortly from the overwhelming evidence and circumstances brought out, I have no hesitation to hold that the worker was responsible for making fictitious and false entries in the bank books for personal gain.

8. The second limb of the charge is that the worker by such acts and omissions defrauded the funds of the bank to the tune of more than five lakhs and this was done with the connivance of the concerned customers after making fictitious credit entries in their accounts.

9. There is no evidence to show that the cash book was handled by the worker or cash transacted by the worker. The cashier has also duly certified the correctness of entries in pages 11, 12 and 13 of Ext. M16. There is no evidence to show that any cheques or withdrawal forms were encashed by the worker. There is also no evidence to show that the worker prevailed upon the customers and got cash encashed on the strength of fictitious entries. If as a matter of fact such a sizeable amount was swindled, there is no explanation for not filing in criminal complaint or making a searching investigation. So I find that the management has miserably failed in establishing the charge of misappropriation of Rs. 5,81,090/- by the worker. The worker cannot also be pinned done with the whole liability for the simple reason that he carries a bad service antecedent.

10. Point No. 2.—The worker was dismissed from service as punishment for committing misconduct of making fictitious and false entries in the bank books and swindling sizeable funds of the bank.

11. On the basis of evidence, I have already found that the management has not succeeded in providing the second limb of the charge i.e. misappropriation of funds. The fraud and malpractice detected spreads over a period of 2-3 years. I am sure these malpractices could have been nipped at the bud with a routine and effective timely supervision. It was contended that the worker is a physically handicapped person who deserves maximum sympathy. Even though physical disability is not a license for the commission of fraudulent acts, having regard to the

evidence and various circumstances and the fact that the charge of embezzlement of money is not proved, the extreme punishment of dismissal from service appears to be highly excessive and shockingly disproportionate to the proved charges. Accordingly, the punishment imposed on the worker is liable to be modified granting some relief.

12. In the result, an award is passed holding that the punishment of dismissal of the worker from service is disproportionate and unjustified to the proved charges. The Management is directed to reinstate the worker in service within thirty days of the pronouncement of award by imposing punishment of forfeiture of the entire backwages and seniority.

Dictated to the confidential assistant, transcribed by her, revised, corrected and passed by me on the 2nd day of November, 2005.

K. BALASUBRAMANIAN, Presiding Officer.

APPENDIX

Witness Examined from the side of the Management:—

MW1 .. Jacob Oommen.

MW2 .. Mohan Das.

MW3 .. H. S. Chidambaram.

Witness Examined from the side of the Worker:—

WW1 .. Valsan M.

Exhibits marked from the side of the Management:—

Ext. M1 .. Proceedings of Enquiry Officer into the charges levelled against Sri M. Valsan.

Ext. M1 .. Undelivered letter issued to M. Valsan by the Management Bank with Ack. card returned.

Exhibits marked from the side of the Worker:—

Ext. W1 .. Medical Certificate issued by Kadathanadan Kalari Sangaam to the Worker dated 24-5-2002.

Ext. W2 .. Certificate of merit issued by the Nedungadi Bank Ltd., to the worker.

Ext. W3 .. Commendation Certificate issued to the worker by the Nedungadi Bank Ltd.,

नई दिल्ली, 14 दिसम्बर, 2005

का. आ. 4780.—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित था कि भारत प्रतिभूति मुद्रालाल, नासिक रोड में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविधि 12 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं ध्येयित किया जाना चाहिए।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (३) के उप-खण्ड (६) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एस-11017/18/97-आई.आर. (पी.एल.)]

जे. पी. प्रति, संयुक्त सचिव

New Delhi, the 14th December, 2005

S.O. 4780.—Whereas the Central Government is satisfied that the public interest requires that the services in the India Security Press, Nashik Road which is covered by item 12 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) section 2 of the Industrial Disputes Act, 1947 the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purpose of the said Act for a period of six months.

[No. S-11017/18/97-IR(PL)]

J. P. PATI, Jr. Secy.

मई दिल्ली, 14 दिसम्बर, 2005

का. आ. 4781.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार (i) जवाहर नेहरू पोर्ट ट्रस्ट, मैसर्स सैच्यूल चेयरहाउसिंग कोरपोरेशन, मैसर्स ओरेनेट मलटी मोडल कैरियर प्राइवेट लिंग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, मुम्बई न.-३ के पंचाट (संदर्भ संख्या 09/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-11-2005 को प्राप्त हुआ था।

[सं. एल-31011/5/2003-आई.आर. (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 14th December, 2005

S. O. 4781.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 09/2004 of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai No. I as shown in the Annexure, in the Industrial Dispute between the management of Jawaharlal Nehru Port Trust, M/s. Central Warehousing Corporation, M/s. Ornate Multi-Model Carriers Pvt. Ltd. and their workmen, received by the Central Government on 22-11-2005.

[No. L-31011/5/2003-IR(B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. LABOUR COURT NO. 1 MUMBAI

PRESENT:

JUSTICE GHANSHYAM DASS

Presiding Officer.

MISC. APPLICATION NO. 9 OF 2004

(Arising out of Ref. CGIT-1/6 of 2004)

Parties: Nhava Sheva Port and General

Workers Union : Applicant

Vs.

1. JNPT, Navi Mumbai.

2. CWC, Navi Mumbai.

3. M/s. Ornate Multi Model

Carriers Pvt. Ltd. : Opponent

APPEARANCES :

For the Applicant : Shri. J. Sawant, Adv.

For J.N.P.T. Navi Mumbai : Shri. Liaz.

For C. W. C. : Shri. B. K. Chopra

For Ornate Multi Model Carriers : Shri. Chinchwadkar

State : Maharashtra

Mumbai, dated the 20th day of October, 2005

ORDER

1. This is a miscellaneous application filed by the union arising out of Reference No. CGIT-1/6 of 2004. The terms of reference are as follows:

“Whether any employer-employee relationship exists between the workmen employed for Container Freight Station Operations in the container Freight Station of Jawaharlal Nehru Port Trust through the intermediaries including the Central Warehousing Corporation (CWC) and M/s. Ornate Multi Model Carriers Pvt. Ltd., Mumbai ? Whether the demand for absorption of workmen employed for Container Freight Station operations in direct services of JNPT is justified ? If not, what relief are the workmen concerned entitled to?”

2. During the pendency of the aforesaid reference the present Miscellaneous application No. 9 of 2004 is being moved by Nhava Sheva Port Trust and General Workers Union and the prayer made there in is for attachment of the Machineries, Equipments and other properties of the respondent No. 3 (Director, M/s. Ornate Multi Model Carriers Pvt. Ltd.) as listed in Exhibit-A which are in the custody, possession and premises of Respondent Nos. 1 and 2, to protect the interests of the workers for realization of the alleged dues running into

2,15,06,204.00 (Rupees Two crores, fifteen lakhs, Six Thousand and Two Hundred Four only) from the Respondent No. 3.

3. Written objections have been filed by the Respondent Nos. 1 and 2 separately and respondent No. 3 separately. This tribunal was not functioning for more than a year and hence the matter had been agitated before the Honourable Bombay High Court by filing Writ Petition No. 916 of 2005 which was decided on 21-7-2005. The hearing of the Miscellaneous Application has been made in accordance with the directions issued by the Honourable Bombay High Court.

4. Lengthy arguments have been heard in this respect but at last, the respondent No. 3 filed an Undertaking dated 18-10-2005 which runs as follows:

"The Respondent No. 3 shall not dispose of the vehicles listed in annexure A hereto, worth Rs. 2,23,5000.00 till the dues of the workers represented by the Applicant Union in the present Reference are either settled amicably or decided by the appropriate Court and paid. The said undertaking is subject to all the parties to the present Reference allowing the Respondent No. 3 to remove and make use of all the vehicles listed in Annexures A and B hereto which are lying and situated at the premises of the Respondent Nos. 1 and 2 herein."

The learned counsel for the applicant has requested that the tribunal may pass necessary order to protect the interest of the workers.

5. The learned counsel for the applicant has fairly conceded that orders of attachment as sought are not possible in the present Miscellaneous application but he prays for protection of the interest of the workmen.

6. Keeping in mind the undertaking furnished before me as referred to above, the following order is passed:

"The Respondent No. 3 shall not dispose of and keep in safe custody the vehicles listed in Annexure "A" here to worth Rs. 2,23,50,000 (Rupees Two crores, Twenty three lakhs Fifty thousand only) till the dues of the workers represented by the Applicant Union in the present Reference are either settled amicably or decided by the appropriate Court and paid. It is subject to all the parties to the present Reference allowing the Respondent No. 3 to remove and make use of all the vehicles listed in Annexures A and B hereto which are lying and situated at the premises of the Respondent Nos. 1 and 2 herein"

7. The application is accordingly disposed of.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 19 दिसम्बर, 2005

का.आ. 4782.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा कानून अपेक्षित था औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के उपबन्धों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 2541 दिनांक 7-7-2005 द्वारा सिक्युरिटी पेपर मिल, होशंगाबाद जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 21 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 7-7-2005 से छः मास की कालावधि के लोक उपयोगी सेवा घोषित किया जाना चाहिए।

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (d) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 7-1-2006 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फ. सं. एस-11017/16/97-आई.आर.(जी.ए.ल.)]

जे. पी. पति, संयुक्त सचिव

New Delhi, the 19th December, 2005

S.O. 4782.—Whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S. O. No. 2541 dated 7-7-2005 the service in the Security Paper Mill, Hoshangabad which is covered by item 21 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 7th July, 2005.

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months.

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a period of six months from the 7th January, 2006,

[F. No. S-11017/16/97-IR(PL)]

J. P. PATI, Jt. Secy.